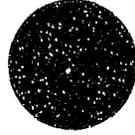


U.S. Department of Justice  
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**National Institute of Justice** / *Issues and Practices*

**Caseweighting  
Systems for  
Prosecutors:  
Guidelines and  
Procedures**

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**James K. Stewart**

*Director*

U.S. Department of Justice  
National Institute of Justice  
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Caseweighting Systems for Prosecutors:  
Guidelines and Procedures

by

Joan Jacoby

NCJRS

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*Issues and Practices in Criminal Justice* is a publication series of the National Institute of Justice. Designed for the criminal justice professional, each *Issues and Practices* report presents the program options and management issues in a topic area, based on a review of research and evaluation findings, operational experience, and expert opinion in the subject. The intent is to provide criminal justice managers and administrators with the information to make informed choices in planning, implementing, and improving programs and practices.

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**National Institute of Justice**

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## Foreword

As more crime victims demand better performance from the criminal justice system and the increasing complexities of the legal process impose their time requirements on each case, the need for improved management policies is urgent. The rising volume of arrests strains scarce prosecutorial and judicial resources. Better prosecutions, in turn, raise the demand on already crowded jails and prisons. Within this volatile environment, strong and effective management becomes essential if there is to be any hope of keeping costs in line or maintaining our quality of justice.

If any single characteristic describes the work performed by prosecutors, it is "variable." As the nature of crime changes, so too does the nature of the prosecutor's work. Homicides, rapes, and assaultive crimes require much greater expenditures of prosecutor time than do petty thefts. Jury trials clearly consume more resources -- both within the office and during the adjudication process itself -- than pleas of guilty at preliminary hearings.

Thus, an office's caseload yields only a rough approximation of its workload. But in prosecutors' offices, as elsewhere, effective management depends on accurate assessment of workload -- detailed information on how much work has to be done, the resources required to accomplish it, and how those resources should be allocated. This report, part of the National Institute of Justice series, *Issues and Practices in Criminal Justice*, presents guidelines and procedures for the use of caseweight systems as just such a management tool. This is not arm-chair theorizing; the figures and illustrations are drawn from actual data derived from research supported by the National Institute of Justice which examined the cost of processing offenders in

four different jurisdictions. The report not only demonstrates the value of describing cases in terms of the number of attorney hours needed to bring them to disposition, but also offers detailed instructions on how to derive and use caseweights for both resource allocation and cost analysis. It is our hope that prosecutors will find it a practical and useful tool as they strive to ensure both fiscal responsibility and the quality of justice.

**James K. Stewart**  
*Director*  
*National Institute of Justice*

## Preface

How efficient is your office? Are your resources adequate for the work you handle? If you had to cut back in staff, how would you do it? Asked of professionals in most fields, these questions might get ready answers, with facts to support them. But for public prosecutors, these are particularly difficult questions with few simple answers.

The National District Attorneys Association, whose members share in the dilemma, welcomes this manual on caseweighting systems as a practical alternative to traditional responses based on guesswork, assumptions and vague estimates.

Caseweighting systems for management and resource allocation, cost analysis and comparative studies are not new, but they have yet to be applied widely. This is due, in part, to the complexity of the prosecutor's work and, in part, to the complexity of the tasks needed to produce them.

This manual reflects the emphasis the National Institute of Justice is placing on translating its research investments into practical products. It is derived from a complex study of the costs of processing adult offenders through the criminal justice system, among other research, and is adapted for use by prosecutors and consultants.

Caseweighting systems give prosecutors vital information about the workings of their offices. We believe that every prosecutor should read the first chapter, which describes the value and uses of caseweighting systems and justifies their development. The remaining chapters have been written for consultants and staff. They present guidelines and procedures

for undertaking development with detailed attention to problem areas.

As Executive Director of NDAA, a professional association dedicated to the betterment of prosecution services throughout the United States, I believe that every prosecutor's office should have this manual as part of its management library. I urge you to read it and use it in designing a management information system which will support the important decisions you face involving your use of staff, budgeting resources and planning operations.

Despite differences in court systems, legislative environments and budgetary constraints, there is a way to determine whether resources are being used properly and with greatest effect. We believe that the rewards will be more effective prosecution at less cost, more efficient operations and, ultimately, better service to the public for the dollars allotted to this part of our criminal justice system.

**Jack Yelverton**  
*Executive Director*  
*National District Attorneys Association*

## Author's Note

All the data used for illustration in this manual are real and reflect fiscal year 1983/84 costs. They are derived from the National Baseline Information Study of the Costs of Processing Offenders through the Criminal Justice System funded by the National Institute of Justice (Grant Number 83-IJ-CX-K043).

The purpose of this manual is to guide consultants and staff in the development of caseweighting systems. This is an instructional manual, not a research report. As a result, the standard academic research format has been abandoned here.

I am indebted to the contributions made by Peter S. Gilchrist, District Attorney for Mecklenburg County, N.C., and Edward C. Ratledge of the University of Delaware. Their knowledge, experience and expertise are interwoven throughout this manual. Similarly, I am indebted to the assistance provided by the staff of the Jefferson Institute, Matthew McCauley and Terry Lewis. Without their help, this manual would not be in existence.

Jack Yelverton, Executive Director of the National District Attorneys Association provided leadership and support for this activity, especially in urging the adoption of caseweighting systems by prosecutors. I am also grateful to the reviewers, Edwin Miller, District Attorney for San Diego, Steve Goldsmith, District Attorney for Indianapolis, and Dan Johnston of the Vera Institute.

In addition, I would like to acknowledge the initiative and support of Virginia Baldau of the National Institute of Justice, who created the opportunity to develop this manual, and Ed Zedlewski, whose sustained interest in performance measurement is implicit throughout this manual. Both reflect the policy

of their director, James (Chips) Stewart, which gives priority to the application of research to practical problems facing criminal justice administrators.

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# I. Caseweighting Systems: Overview

## INTRODUCTION

Caseweighting systems describe the variety and complexity of work in a prosecutor's office. Prosecuting criminal offenses, conducting investigations, operating special programs, handling juvenile matters, citizens' complaints, appeals and even civil cases are only some of the activities in the world of prosecution. The fact that many of them are carried out in different courts (sometimes even in federal courts) under different legal and procedural environments further complicates the situation. Add to this, differences in the levels of effort expended on crimes, or set by the dispositional routes cases follow, and some of the difficulties in measuring performance and productivity are suggested.

The common thread is work, and describing how work is distributed throughout the office is the role of case weights. The objective is to improve the efficiency and effectiveness of operations and management through better decision-making. Caseweighting systems are the information base which supports decision-making.

Case weights are simply the levels of attorney effort needed to process different types of cases through the steps of adjudication. Case weights can be developed for civil cases, juveniles, appeals, investigations, or any activity that has varying levels of effort.

## 2 Caseweighting Systems for Prosecutors

Caseweighting systems refer to the different ways case weights can be used for operations, management, budgeting and planning. They are especially appropriate in the court environment because the level of effort associated with each court hearing is not constant. Attorney effort varies depending on the nature and characteristics of the case being processed and the dispositional route it follows.

Why should an agency use caseweighting systems? What benefit do they bring to a prosecutor, and is the effort spent developing these systems worth the results they produce?

### Justification for Case Weights.

Work in a prosecutor's office usually is described by measures of volume and time. The number of cases prosecuted describes the size of the universe within which prosecution functions, and the time it takes to bring cases to disposition yields (however poorly) some inferences about the efficiency of a court system.

But these measures provide little information about the performance of an agency, its productivity or its needs. To illustrate, let us look at the increase in information that is produced when workload measures are added to case statistics. In Table 1.1, the number of cases disposed of annually is weighted by the average level of effort (case weights) to produce estimates of the office's workload. Percent distributions of the frequency and workload are then calculated to indicate where major differences occur between these two sets of information.

The frequency distribution is a familiar one. Misdemeanors predominate (comprising 75 percent of the caseload) followed by property crimes (15 percent). But look at the changes once these figures are described in terms of work! Eighty two percent of the work in the office is directed to felonies even though the misdemeanors comprise almost 75 percent of the caseload. Property crimes are the biggest single consumer of work in the office, using 35 percent of all effort.

Table 1.1  
Distribution of Closed Cases by Offense and Attorney Effort.

Offense	Cases	Avg. Attny.		Percent Distribution	
		Hours	Workload	Caseload	Workload
Felonies	4,870	2.7	13,317.4*	25.4	82.3
Violent	764	4.3	3,285.2	4.0	20.3
Property	2,852	2.0	5,704.0	14.9	35.3
Drugs	494	2.3	1,136.2	2.6	7.0
Other	760	4.2	3,192.0	4.0	19.7
Misdemeanors	14,274	0.2	2,854.8	74.6	17.7
All Cases	19,144	0.9	16,172.2*	100.0	100.0

\* Totals are not calculated from average hours.

What does this mean to an office with 20 attorneys and the District Attorney? It suggests that about 80 percent of the staff (16 attorneys) should be assigned to felony prosecutions and 20 percent (4 attorneys) to misdemeanors to handle the workload. If caseload was the criterion, then 75 percent of the attorney staff (15 attorneys) would be assigned to prosecuting misdemeanors.

What causes the difference in decisions based on caseload or workload are the assumptions they rest on. Using caseload as a basis assumes that all cases are prosecuted with the same level of effort. Using workload as a criterion recognizes the real world of prosecution and how work is conducted.

If we assume equal levels of effort (under the caseload criterion), then, as the table above indicates, all cases would take an average 0.9 of an attorney hour. This figure alone shows how misleading averages can be in describing workload.

Time is the other frequently used descriptor of an agency's operations. Speedy trial rules, court delay reduction programs and court procedures all play a part in evaluating efficiency.

Much attention has been given to measuring case processing times, and comparative studies have examined differences in

#### 4 Caseweighting Systems for Prosecutors

delay in the courts under different local environments. But case processing time expressed in calendar days is too broad a measure for management and policy analysis within a prosecutor's office, because the amount of time spent on casework, as reflected by attorney effort, is overwhelmed by the amount of time spent waiting for work to be scheduled. Although prosecutorial intervention can reduce some of the delay, it still is driven primarily by external factors, such as court procedures, capacity and policy.

Much of case processing time is determined by legislative or judicial decisions. The legislative environment within which the court and prosecutor operate defines the steps that cases follow and even the nature of the court hearings. Jurisdictions that follow an accusatory route from arrest to grand jury have different case processing times than jurisdictions that use a preliminary hearing to bind a case over to the grand jury. Preliminary hearings that permit credible hearsay have different processing times than those that don't permit it. Court rules and policy similarly have an effect. Because of all these constraints, the ability of the prosecutor to change case processing times is limited.

Even where change is possible, through improved management and operations, the single measure of processing time is not very informative because it does not distinguish between two important components of time: queuing time and processing time. Processing time is the component crucial to the development of case weights. Queuing time simply represents periods of inactivity when no work is being expended on a case.

The differences can be illustrated rather simply by the following example. Suppose it takes 153 days from time of filing to disposition for a felony case. This interval can be divided between calendar time, representing the days between scheduled court appearances, and work time, which reflects the actual effort given to a case by a prosecutor both in and out of court.

Table 1.2  
Categorizing Time by Process and Type

Work Step	Calendar Time	Attorney Work Time	Total
Filing to preliminary hearing	5 da 5.0 hrs	3.0 hrs	6 days
Prel. hrg. to grand jury	25 da 7.5 hrs	.5 hrs	26 days
Grand jury to arraignment	7 da 7.0 hrs	1.0 hrs	8 days
Arraignment to motions	30 da 2.0 hrs	6.0 hrs	31 days
Motions to jury trial	45 da 3.0 hrs	45.0 hrs	51 days
Disposition to sentence	30 da 6.0 hrs	2.0 hrs	31 days
Totals	145 da 0.5 hrs	62.0 hrs	153 days

As the table shows, only 62 hours (or 7.7 work days) are needed to dispose of a case; the rest of the time has nothing to do with the amount of work expended. Even then, not all of these 62 hours are devoted to work since they include time spent in court waiting for a case to be called. Programs to reduce case processing times usually focus on calendar time. Our focus is on the amount of time spent by attorneys at work. As a result, we exclude queuing time and study where work is being directed and with what consequences. Case weights have the potential for providing valuable information to the prosecutor. How they can be used to support the operations, administration and planning functions of the agency will be examined next.

### CASEWEIGHTING SYSTEMS: TYPES AND USES

Caseweighting systems are the ways case weights can be used, and will vary according to their purpose. These range from case assignments, performance evaluation, the allocation of resources, organizational analysis, management analysis, cost analysis, budget justification and policy and planning.

The primary purpose of caseweighting systems is to aid decision-making at all levels of management, from the state administrator (if so structured), to the local government, to the

## 6 Caseweighting Systems for Prosecutors

prosecutor's office. This decision-making spans a variety of functions, from operations to management to budgeting and planning.

Depending on these uses, caseweighting systems can take one of two basic forms. The first uses attorney hours (or workload) to support operational and management decisions. The second places a cost on the hours and is used for cost analysis. The first version is easier and less expensive to develop than the second but it does not provide the prosecutor with cost information. The prosecutor's decision about which version to use should consider both the purpose of the caseweighting system and the expense for its development.

### Systems Using Attorney Hours.

Most valuable are systems which address the problems of how to use finite and scarce resources in the most efficient and effective manner. In a tightly budgeted prosecutor's office, this can make the difference between an efficient operation and one subject to wasted time and unproductive labor. Most prosecutors have only a general notion of how work is distributed in an office. Attempts at fine-tuning their operations to maximize efficiency suffers as a result. To judge the extent to which problems exist we must know first how work is distributed.

*Some Uses.* As we saw in Table 1.1, 82 percent of the workload resulted from felony cases with property crimes consuming the largest proportion of work (35 percent). We noted that an equivalent proportion of attorneys should be assigned to these cases but we did not discuss where the work occurs in the adjudication system.

Some steps in the adjudication process do not take as much effort as others: first appearances generally are fast-moving; motions may be lengthy, especially in their preparation; jury trials usually consume the most attorney effort. Table 1.3 below illustrates how much attorney effort is associated with these various steps. The average attorney hours include both out-of-court preparation and in-court time.

Table 1.3  
Attorney Effort Associated with  
Adjudication Process Steps.

Process Steps	No. Cases	Avg. Attny Hours	Workload Hours	Percent Distrib.	Cum. Pct.
<b>Felonies</b>					
Screening	4,195	.1	419.5	3.2	3.2
First appear.	3,686	.4	1,436.9	10.9	14.1
Case review	3,686	.1	368.6	2.8	16.9
Probable cause	2,190	.6	1,295.0	9.8	26.7
Grand Jury	1,978	.3	510.9	3.9	30.6
Arraignment	1,738	1.2	2,034.6	15.4	46.0
Calendar call	1,707	1.2	1,967.3	14.9	60.9
Motions	58	.9	47.8	0.4	61.3
Plea	893	1.1	999.7	7.6	68.9
Jury Trial	814	3.3	2,717.0	20.6	89.5
Sentencing	1,500	.9	1,346.1	10.2	99.7
P/P Revocation	69	1.0	69.0	0.5	100.0
<b>Total</b>			<b>13,212.4</b>	<b>100.0</b>	
<b>Misdemeanors</b>					
First appear.	11,809	.1	1,180.9	33.3	33.3
Bench Trial	2,565	.2	513.0	14.5	47.8
Plea	9,271	.2	1,854.2	52.3	100.0
<b>Total</b>			<b>3,548.1</b>	<b>100.0</b>	

After calculating the workload of each process step, the percent distribution shows how the attorney's effort is distributed over the adjudication system. Thirty one percent of the office's work on felonies is spent on intake and the accusatory process. Five process steps (first appearance, arraignment, calendar call, jury trials and sentencing) account for 72 percent of the workload. For a prosecutor seeking to do more with less, this type of information is the basis for decisions on utilization of personnel and other resources, such as support and investigative staff, and for decisions about controlling procedures.

Armed with the knowledge above, efficiencies could be sought in a number of areas. For illustration, we note that calendar call consumes 15 percent of the felony workload.

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Calendar calls, held once a week for misdemeanor cases, twice weekly for felonies, have the main function of reviewing the calendar and ascertaining the readiness of cases for trial or for disposition by guilty pleas.

If the time spent on this could be reduced, it would save substantial amounts of attorney time. The 1,967 hours spent by prosecuting attorneys on this step equates to a little more than one year of an attorney's working life. This would not be the only saving, since a comparable amount of time is also spent by public defenders.

Dismissals are costly if they occur late in the process. A dismissal any time after arraignment has used as much, or more, attorney time as a jury trial. Holding attorneys accountable for late-in-the-process, dispositional decisions and reinforcing early screening, are other ways to more efficiently use the attorney hours available.

Resource allocation is not static, once set never to be changed. If changes occur in case volume, the nature of the crimes, court procedures or policy, their effects are on the workload. Good management is based on the ability to make appropriate adjustments to the distribution of resources.

This is especially important for the budget process. Justifications for increases in budgets are usually based on one or more of the following claims: increases in the volume of work, the addition of new programs or services or changes in the nature or quality of the services provided. Numbers are the main demonstrators of need, and as we have seen, numbers weighted by effort provide more realistic and more sensitive indicators of the agency's needs.

Budget justifications based on the amount of work in the office rely on the thesis that a prosecutor's office has a fixed set of resources; it prosecutes a relatively stable number of cases; and its resources should equal the work that must be done.

By translating case volume into attorney requirements, these systems support the budget process. To illustrate, let us assume that the caseload set forth in Table 1.1 has increased 10 percent across the board in the current year.

**Table 1.4**  
**Caseload with a Projected 10 Percent Increase**

	Caseload		Case
	Prior Year	This Year	Change
Felonies	4,878	5,366	488
Misdemeanor	14,272	15,699	1,427
Total	19,150	20,915	1,915

Would the 1,915 case increase be enough to justify a request for one (or even two) attorneys? The office supports 20 attorneys, of which 12 are assigned to felony cases and eight to misdemeanor cases. If we calculate the increase in caseload per attorney, it would show a rise in the felony caseload from 407 cases per attorney to 447 and a misdemeanor increase from 2,400 cases per attorney to 2,600. Does this increase justify additional attorneys? Without standards or guidelines, it is difficult to say.

But let us look at workload. If workload is projected based on the projected 10 percent increase in crime, then it changes as follows:

**Table 1.5**  
**Workload with Projected 10 Percent Increase**

	Workload		Change
	Last Year	Next Year	
Felonies	13,212.4	14,533.6	1,321
Misdemeanors	3,548.1	3,902.9	355
Total	16,760.5	18,436.5	1,676

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The increase of 1,676 attorney hours translates into a need for 2 additional attorneys if the present work rate is maintained. The work rate is computed as the total workload hours divided by the number of attorneys ( $16,760/20 = 838$  hours per attorney). The 838 hours worked is not to be confused with hours paid for (2,088 a year) or hours worked (229 days at 8 hours = 1832). The 838 hours worked represents hours worked on specific criminal cases. It does not include time spent on general work such as research, correspondence, recordkeeping and so forth, nor does it include time spent on administration. Its closest analogy is the case-billable time used by attorneys in the private sector.

Caseweighting systems based on the levels of effort associated with offenses and case processing offer good value to the prosecutor interested in the efficient use of personnel, the reduction of unnecessary work, and the evaluation of manpower needs. Once established, they provide a solid basis for better decision-making.

*Cost Considerations.* The time, effort and costs needed to develop this type of system depend to a large extent on the size of the office. However, the factors that will affect the costs can be specified. They include:

- (1) Obtaining statistical data about the number and type of cases prosecuted and the location of their dispositions;
- (2) Having attorneys maintain logs for a 6 to 8 week period in a manner comparable to client billing practices so that attorney effort can be measured;
- (3) Editing, coding, and preparing the data from the logs for automation;
- (4) Analyzing the results and producing reports for operations and management.

The project would take 4 to 6 months from start to finish. (This includes the logging period of 6-8 weeks). Because of its complexity, we do not recommend that it be performed by prosecution staff. Consultants will be better able to perform the

variety of tasks required and coordinate their completions. The level of consultant activity would depend on the size of the office. At a minimum, however, one professional analyst, an assistant and part-time data editors and coders would be needed. Obviously these numbers would increase as the volume of work in items 2 and 3 increased.

This is a one-time project, not on-going, and unless there are significant changes in prosecution or the court's procedures, the weights should be valid for at least two years. At that time, the need for repeating the study should be evaluated.

#### **Systems for Cost analysis.**

Caseweighting systems used for cost analysis add another dimension to the prosecutor's decision-making function. Adding dollar value to the levels of effort produces information to support the agency's activities in planning, budgeting, pricing, controlling expenditures and evaluations. Cost analysis helps a prosecutor establish objectives, judge the feasibility of these objectives and compare alternative ways for achieving them.

Prosecution costs can be developed by loading onto the attorney hours spent on casework all other agency costs associated with the attorney's work in proportion to the attorney's use of them. In one sense, the attorney hours are direct costs onto which are loaded all other indirect costs.

Costs can be defined as labor costs, which include salaries, fringe benefits and administrative costs; as agency costs, which include other direct costs, contractual services, travel, supplies and equipment; or as total system costs, which also include the cost of services and transfers provided by the local government or even state agencies to the prosecutor. For the illustrative purposes of this manual, we will look only at labor costs.

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Table 1.6  
Labor Costs per Case  
by Type of Offense

Type of Offense	No. Cases	Total Cost	Cost per Case
Violent	764	\$158,254	\$207.14
Property	2,852	288,684	94.21
Drugs	494	55,446	112.24
Other	760	154,585	203.40
Misdemeanors	14,274	171,054	11.98

In Table 1.6 above, labor costs (personnel salaries, fringe benefits and indirect costs) are loaded onto the amount of attorney effort used to bring the different categories of offenses to disposition. Dividing this dollar value by the number of cases yields a per case labor cost. The costs vary because of differences in the use of support staff (misdemeanors require the least, property crimes the most); the assignment of attorneys based on experience, hence salary (e.g., least experienced attorneys are assigned to misdemeanors); and the process that the case follows, which translates into the level of attorney effort (e.g., violent crimes tend to be tried by jury).

*Some uses.* Per case costs are useful for comparison among jurisdictions because they take into account the factors most influential in establishing costs: volume, case complexity, personnel utilization and court procedures. They are also useful for monitoring costs over time.

The rewards from cost analysis can be found in the decisions which benefit most from this information. For budgeting decisions, cost analysis, together with projections of caseloads, personnel needs and equipment requirements, provides more reasonable justification than the traditional incremental, across-the-board funding requests. The use of weighted caseloads for these projections introduces rationality to the budget planning process.

Cost analysis also promotes an awareness of the unit costs of prosecution which, in turn, can be used to monitor the fiscal health of the agency. This can be done over time by watching trends, or by identifying significant changes for management's attention. For example, if the per case cost is increasing while the number of cases being disposed of is decreasing, the reasons need to be found.

Management control is not the only issue; general increases in salaries or fringe benefits, inflation or temporary fluctuations in the caseload may also act as initiators. In a changing crime or court environment, the prosecutor must be able to monitor the costs of services and be aware of changes as they occur. This is especially important if charges can be levied for these services. For example, processing worthless check cases or operating pretrial diversion programs may be sources of revenues. If they are, knowing the cost of these services is essential to pricing them.

Evaluation is enhanced by cost analysis studies. Knowing the per case costs of crime and of each step in the adjudication process lets the prosecutor judge the agency's organizational and program effectiveness and even appraise performance.

Once there is a determination that the costs are not acceptable, remedial action can be taken and its effectiveness measured. For example, the prosecutor whose costs are displayed in Table 1.4 was appalled to find that misdemeanor appeals consumed almost as much of his labor budget as violent crime. He subsequently put this group of cases under scrutiny to find the reason for such a high volume of appeals and identify ways to reduce them.

Viewing an agency from a cost perspective is especially important when cutbacks and reductions are imminent. A knowledge of where costs are incurred adds to the ability of the prosecutor to make difficult decisions about reductions. For example, if continuances consume 15 percent of the prosecutor's expenditures, it is better to achieve savings in this area first

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before considering reductions in staff.

*Cost considerations.* Developing costs for caseweighting systems is more complicated than developing case weights based on attorney hours. This is because expenditure data has to be added to the list of ingredients. The expenditure data needs to be broken apart and distributed so that the costs can be assigned in proper proportion reflecting the activities of the office. This task will add to the length of time the study takes and its complexity.

It will require the addition of one or two more persons to the project depending on the nature and detail included in the financial reporting systems of the state, county and/or city. These professionals and their assistants should have financial management or accounting backgrounds.

There are other ways to cost prosecution in addition to costing the work hours of attorneys. But, a recent examination of the different ways costs can be estimated which was conducted for the National Baseline Information study indicates that costing case weights is the best method available for this level of detail and for these management uses. A summary of this examination is included in the appendix.

### **Limitations.**

Caseweighting systems do not solve all the problems facing prosecutors. Indeed, they may even uncover others, just as the high cost of misdemeanor appeals was identified. Some of the limitations of these systems can be spotlighted by noting what caseweighting systems cannot do or should not do.

Of common interest to prosecutors and public defenders is the question of the appropriate size of an attorney's caseload. How large should it be? How many cases can an attorney handle before the quality of the prosecution, or defense, is diminished? How many attorneys should be hired to handle a given caseload? What is the maximum (or minimum) number of cases an attorney should dispose of in a year?

There are no simple answers. But there are different ways to approach these and other related questions. Case weights provide one such approach, since they ask the question with respect to workload, not caseload. They let the prosecutor measure where the agency's resources are located, how much work attorneys are doing and whether they are up to capacity or not.

Caseweighting systems cannot specify the optimal levels of productivity or capacity. They only measure and describe what is, not what should be. Thus, although the average costs per case can be estimated in more than one jurisdiction, it is difficult to make judgments about the acceptability of these costs until we know what factors affect them and whether they can be changed. For example, court procedures like discovery, open file policies between prosecutor and defender and the admission of credible hearsay at probable cause hearings may work in one jurisdiction to reduce case processing work and costs, but may be impossible to implement in another jurisdiction because of legislative and judicial procedures.

Case weights measure the levels of work, but they cannot indicate whether these levels of effort are too high or too low. To do this we need to develop other measures which are unrelated to work such as, indicators of acceptable dispositions, sufficient court capacity, adequate representation and equity. These measures of what should be have not been developed, so we are left with only the ability to compare measures of what is. There are only three types of comparisons (over time, over place, or to some standard), and all are deficient in their ability to evaluate the quality of the work produced.

Finally, even the best systems will be affected by exceptional circumstances which may drastically change the workload and the demands on the prosecutor's resources. Capital crimes, hostage situations, organized crime investigations, unplanned and unanticipated events, may work even against those systems which have taken into account variations in workload. There should always be some excess capacity in a prosecutor's office to

absorb these aberrations. The unanswered question is still, how much should be set aside?

Imperfect as they are, caseweighting systems nonetheless provide valuable insight and information about the work done in a prosecutor's office and the cost of that work. But how reliable are case weights? If they are developed by self-reporting techniques (logs), then what assurance is there that the estimates reflect reality? Given that in some jurisdictions estimates may be based on only a few cases (e.g., jury trials for burglaries) or for exceptional cases (a capital crime or kidnapping), then how reliable are the estimates?

We will see that all the evidence to date supports the reliability of self-reported data. In three jurisdictions, the hours reported by prosecutors and public defenders over the same time period are remarkably similar. The conclusion is that attorneys are professional in their performance of this onerous task. However, we will also see that the level of detail needed to develop case weights introduces the statistical problems associated with small sample sizes.

Caseweighting systems support decision-making, especially policy-making. While their limitations should be recognized, this should not preclude their use. In the final analysis, the information they provide is powerful enough to outweigh these limitations.

## CONCLUSION

This chapter has discussed caseweighting systems in general. Its purpose was to put these systems into perspective so that their value and utility could be explored. The following chapters present the guidelines and procedures for developing case weights. They are directed to the prosecutor's administrative and technical staff who would oversee the consultant's work in developing case weights, coordinate the project's requirements with the attorneys and administrative staff in the office, and ensure that the consultant's work satisfies the purposes for which the caseweighting systems are to be used.

The chapters are also useful to the consultants because they detail the work steps and procedures which should be followed to bring this project to successful completion. In this respect, they are a work plan for carrying out this project.

Before undertaking the study, however, it is necessary to decide which version of caseweighting systems is desired. If the one based on attorney hours is selected, the reader can skip Chapter 3 on costs. If cost analysis is desired, then the work in Chapter 3 should be included.

Because comparative analysis is commonplace, Chapter 4 has been added to help the consultant and/or the agency avoid some of the pitfalls associated with comparing raw data. It presents a relatively simple technique for adjusting data to make it comparable.

Finally, the appendix presents the evidence about the reliability of self-reported data obtained from prosecutor and public defender logs. It also contains the FBI's NCIC uniform offense classification codes which may be helpful to offices in coding offenses and a methodological note which should be of interest to those seeking to evaluate alternative costing procedures.

## II. Developing Caseweighting Systems

### INTRODUCTION

In this chapter, the basic ingredients for developing case-weighting systems are identified and techniques for their collection are discussed. Two sets of information are needed. They are:

- (1) statistical data which describe the volume and type of work processed by the prosecutor's office;
- (2) attorney effort which generates case weights for the prosecution of adult felony and misdemeanor cases.

To apply costs to this system requires a third information set, namely expenditure data. Expanding the system for cost analysis purposes will be discussed in the next chapter.

The steps and procedures presented are based on our experience which identified both problems and shortcuts. Hopefully, this chapter will transfer this knowledge to those who undertake a similar effort.

### DATA REQUIREMENTS

Of the information sets, the easiest to collect is the one that describes the volume of work in the office. This does not mean, however, that it is always available in the form needed. On the contrary, some parts will have to be estimated from hand counts of closed case files. The fewer counts that have to be made, the easier the task. This section will discuss some of

the essential steps.

### Define scope of study.

To keep data collection to a minimum, the purpose and scope of the study should be clearly stated and the activities to be measured should be defined. Of the many functions performed by prosecutors, only some are suitable for developing case weights. Even some of those may be excluded depending on the purpose of the study. Areas that should be considered are:

- civil cases (they should have their own set of weights);
- juvenile cases (they should have their own set of weights);
- traffic and moving violations (their process times are probably fairly constant, so averages will suffice);
- URESA or child support enforcement cases (they are not attorney intensive);
- appeals (it depends on the size of the caseload and what agency has jurisdiction);
- investigations (depending on their duties, one might want the investigators to complete logs for their own weights).

This report focuses on adult felony and misdemeanor cases, including misdemeanor appeals and adult probation and parole revocation hearings. This classification describes almost all the significant activity which occurs in the adjudication of adult offenders. It also consumes the largest portion of the prosecutor's workload and, therefore, can be cited as representative of the entire agency.

### Use offender based statistics.

The statistical data needed for the development of case-weighting systems should be offender based. It does not matter how the court counts cases (although its procedures may be helpful); the prosecutor's work is measured by defendant cases. It is the defendant who is tried, convicted or otherwise disposed. Thus, work should be measured in terms of the disposition of a defendant case. Cases with co-defendants should be counted separately because dispositions occur for each person. Even if

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defendants are joined in a case, the levels of attorney effort should be divided in half, if necessary.

Offender based statistics have their own counting problems, most notably in cases with multiple charges or counts. For statistical purposes, multiple charges against one defendant should be counted as one case identified by its most serious charge.

Multiple counts pose different problems, especially for bad check cases. Rules need to be established for counting a defendant who, for example, is prosecuted for passing 20 bad checks over a period of 2 or 3 months. One guideline which seems reasonable is to define these cases according to how they are prosecuted. If the 20 cases are tried (or disposed) as part of one effort (one hearing, or one trial), then they should be counted as one case. If they are handled separately, requiring separate court hearings, then the count should reflect the work.

### **Develop a flowchart of the adjudication system.**

To facilitate the collection of statistics, a flow chart should be prepared. The flow chart identifies each of the process steps where work occurs and acts as a checklist for the completeness of the counts. It also describes the percent of cases dropping out at each step in the process which is useful for projections and planning. The three items of information needed for each process step are:

- (1) the number of cases moving into the process step;
- (2) the number of cases moving to the next process step;
- (3) the number and types of dispositions at the process step.

Figure 2.1 shows a typical flow chart with this type of information.

Figure 2.1

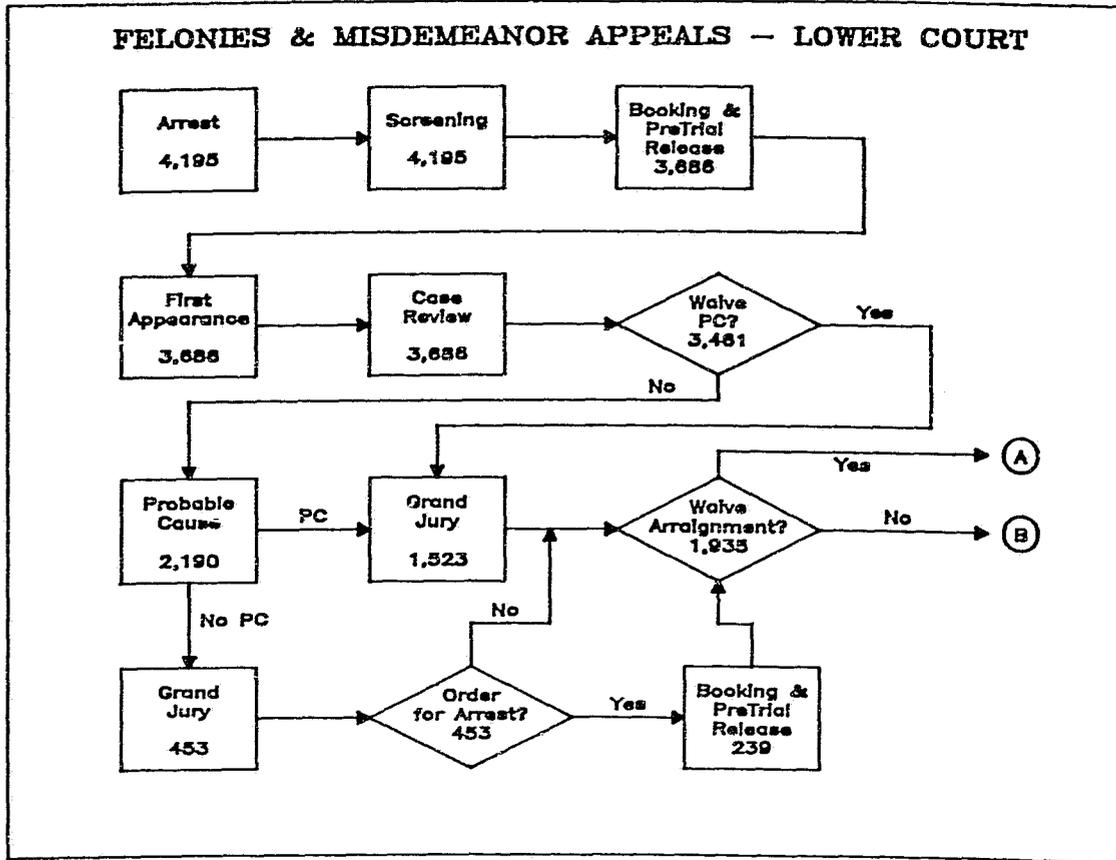


Figure 2.1 (cont.)

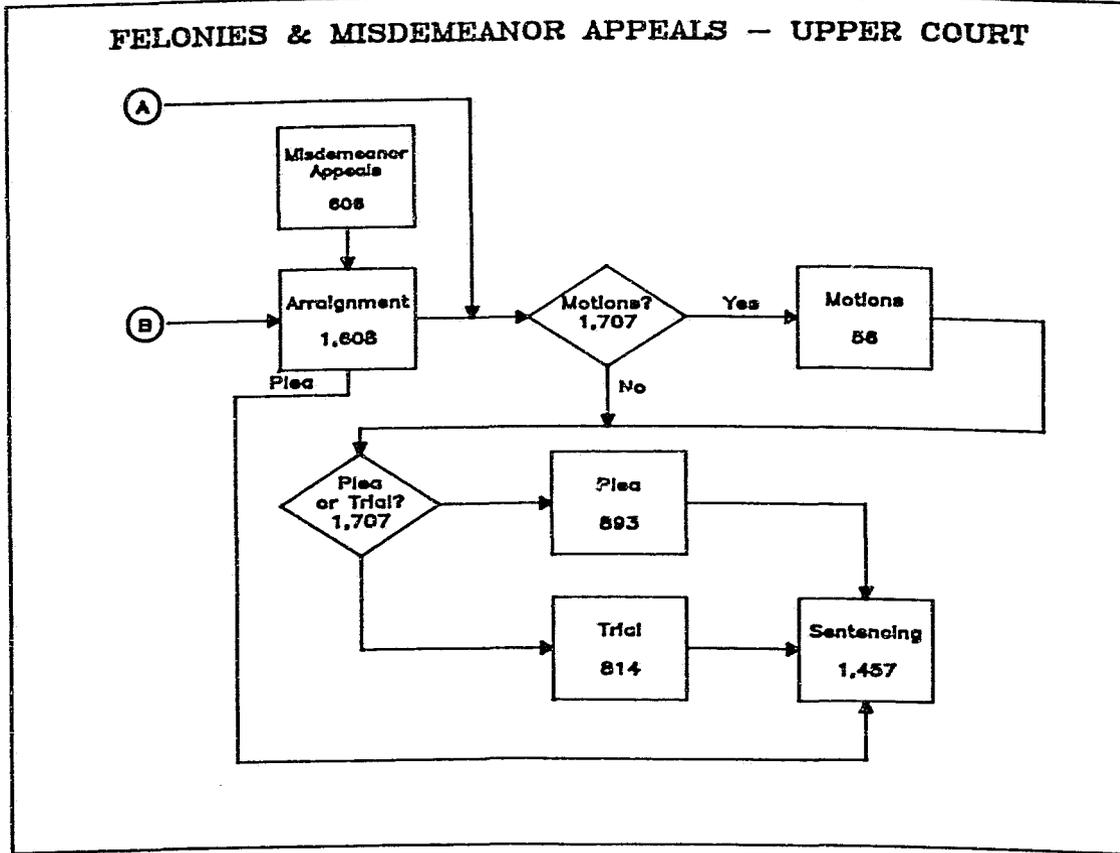
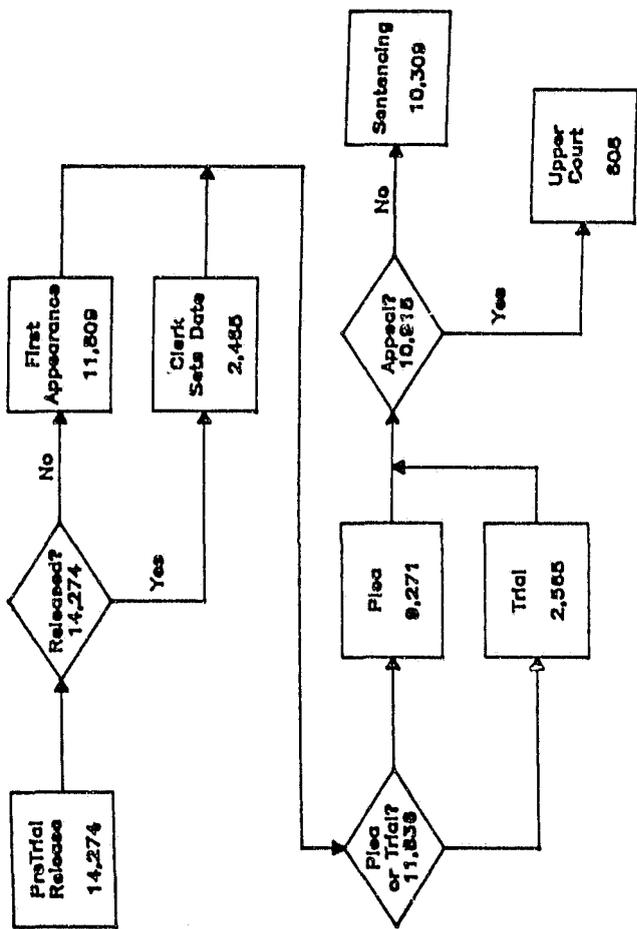


Figure 2.1 (cont.)

MISDEMEANOR FLOWCHART



**Count the work in all adjudication process steps.**

Since work (or effort) is the keystone, counts need to be taken of case processing in all areas even those not normally associated with case statistics. Some of these areas include: case screening, or review of cases at intake; motions; pretrial conferences; misdemeanor appeals; and parole and probation revocations. If an activity requires attorney effort and may result in cases exiting from the adjudication process, then the volume processed, the volume disposed and the volume moving forward must be collected.

Most of the statistics needed for caseweighting systems can be derived from closed cases. Annual counts are recommended because they present a more reliable picture of the work in the office (most cases are disposed within a year); and they are easily relatable to fiscal year expenditure data. Some of the annual statistics may have to be estimated from samples if the activities are not traditionally counted. In these circumstances, closed files, or other records maintained in the office, by the clerk of the court or court administrator, pretrial release or even the sheriff might be sources. Depending on how the records are organized, one can sample a month or two of records and inflate the counts to a year; or, if the annual count is known, take a systematic random sample and distribute the annual count according to the percent distribution estimated by the systematic random sample.

**Collect all statistical data by type of offense.**

This requirement is the most threatening to the completion of the study. Yet, if it is not met, the results will be degraded. One cannot avoid collecting data by crime type just because it is difficult to obtain the statistics or complicates the work.

Every study to date confirms that the levels of attorney effort vary significantly by the type of offense and the dispositional route of the case. To ignore these findings for the sake of convenience, will distort the case weights, making them worthless. Recall from Table 1.4 that the average level of effort (0.9 hours) bore no relationship to the levels of work actually

occurring in the office when it was classified by the type of offense.

If levels of effort (or case weights) have to be distinguished by the type of offense, then the statistics collected must make the same distinction. Based on the analysis of data and taking into consideration the infrequency of some offenses (e.g. kidnaping), the cases should be grouped into crime categories. The following represents a minimum set and conforms to the FBI's NCIC uniform offense classification system (see the appendix for a detailed listing): Felonies, distinguishing between:

Violent: (homicide, kidnaping, sexual assault, robbery assault, abortion)

Property: (arson, extortion, burglary, larceny, stolen vehicle, forgery/counterfeiting, fraudulent activities, embezzlement, stolen property, damage property)

Drugs: (dangerous drugs)

All other felonies;

Misdemeanors, including misdemeanor appeals.

A flow chart depicting the process flow should be developed for all cases, each of the above felony crime types, and for the misdemeanor process. A total of 6 flow charts should be produced.

This completes the work required for this set of information. In the next section, we will examine how levels of attorney effort are measured and case weights developed.

## ATTORNEY EFFORT

Before we discuss the procedures for obtaining estimates of attorney effort expended on adult criminal case prosecutions, recall that case weights apply to only that work which can be attributed to an identifiable case at a specific process step within the adjudication system (like preliminary hearings for violent crimes, or first appearances for drug cases).

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Attorney effort which produces case weights excludes other measures of legitimate activities (or work) performed for non-case-specific work and administration. These activities also have to be measured so that they can be loaded onto the basic resource unit (the billable attorney hour) for cost analysis. All the criminal work in the office has to be accounted for if studies of productivity and the utilization of resources are to be undertaken. Therefore, attorney effort has to be measured in relation to all the work in the office.

### Establish a classification of work.

Work is the sum of the following activities:

- (1) time spent on case-specific criminal case prosecutions (this is the basis for case weights)
- (2) time spent on general criminal prosecution matters that cannot be related to a specific case;
- (3) time spent on administrative matters; and
- (4) time spent on other or non-criminal matters.

The amount of time spent on specific criminal case prosecutions is analogous to "case billable" time in the private sector. It represents the direct allocation of attorney effort to a specific, identifiable case. Thus, it acts as the best estimate of the amount of effort associated with prosecuting various types of cases along the routes to disposition. For example, cases dismissed at a preliminary hearing require less effort than cases disposed after jury trial and appeal. Similarly, violent crimes, capital cases and cases with high public interest will consume more effort than a routine drug case or a larceny, and are more likely to demand adjudication by jury trial.

Not all attorney time can be allocated to individual cases. Some proportion of work related to criminal prosecutions is general. These are the activities which are essential to prosecution but which are not assignable to cases. They include researching legal matters, answering correspondence, or participating in meetings and conferences. They even include more mundane,

but equally essential, activities as cleaning off a desk, filing papers, or thinking. Professional activity in these areas is as necessary and important to the performance of prosecutorial functions as actual case processing. The sum of the time spent on case-specific activities and general, criminal prosecution matters constitutes work directed to criminal prosecutions.

Within any office, a certain amount of time has to be spent on administrative duties that are office-wide in scope. These are the policymaking, planning, budgeting and administrative functions which support the office. Depending on the size of the agency, the amount of time devoted to office-wide administration will vary considerably; smaller offices devote only a small proportion to these duties. Whatever the amount, it should be allocated between the work directed at criminal cases and that for non-criminal activities.

One technique for making this distribution is proportional allocation. For example, if 12 percent of the work in the office is related to administrative matters and 78 percent is related to adult criminal prosecutions, then 78 percent of the 12 percent, or 9.4 percent of the office's administrative costs can be attributed to criminal prosecution services. Other techniques can be used as long as they have a rational, and stated, basis. We use proportionality as the basis for distributing the statistics and costs in this report.

Excluded from the administration category are the supervisory activities of attorneys who head up operational units. For example, the work of the chief of the felony trial division or the head of career criminal may include some administration; but it is not office-wide in scope. As a result, this supervisory time is classified as non-case-specific, general criminal work.

As we noted earlier, prosecutors have jurisdiction over a variety of legal or quasi-legal matters. They may process local ordinance violations, juvenile and family matters, handle appeals, serve as legal advisor to the county board of commissioners, process child support enforcement matters, and have jurisdiction over civil matters. Not all of these activities may be

considered criminal and not all may be of interest to the study.

Thus, a catchall category of work is created which includes non-criminal matters or any area not included in the study. For this report, all cases or matters which do not involve adult criminal offenses or office-wide administrative duties are included in this category. The purpose and scope of each study will define what areas will be included in this other, or non-criminal, category.

Within this framework, our approach is to calculate the amount of time spent on case-specific activities and treat it as the basic work unit which is one part of all the criminal and administrative duties associated with the prosecution of adult felony and misdemeanor offenders.

#### **Measure attorney effort expended on criminal cases.**

Knowing how much attorney time is associated with types of crimes and activities enables the prosecutor to make rational decisions about the allocation of personnel resources, shows where to seek economies and identifies what additional resources are needed in order to provide essential services.

The major user of case weights is the Administrative Office of the United States Courts which uses weights developed by the Federal Judicial Center to indicate the complexity of cases handled by U.S. District Court judges. However, these weights are based on a national average, which allows for comparison among the courts but does not reflect the actual work in each District Court. Other users on the state and local level are to be found primarily in California. Some users are also in Pennsylvania and New Jersey. (See the bibliography for citations).

National averages or standards mask differences in workload, management, procedures, organization and policy. Only through self-reported data which is captured by logs can we obtain information about variations in effort that can be attributed to individual attorneys, case attributes or the larger judicial or legislative environment. As a result, for prosecutors and managers who are interested in performance, productivity and

planning, logs become the preferred means of capturing this information.

Logs are the best source for estimating attorney effort, since they record the time spent on various activities and capture other pieces of information useful for developing case weights or for other study purposes.

Two types of logs can be used. One is a case tracking log, which records all activity relating to a case. It is usually filed with the case folder and entries are made whenever the case is handled. This practice is similar to case billing in the private sector and it produces estimates of the amount of work on a case, from intake to disposition.

The benefit of this type of log is that it supposedly captures all the information about a case and therefore eliminates variation due to sampling. The primary disadvantages are: (1) it may not collect data about work early in the process, such as case screening or even first appearances, since it tends to start after cases have been accepted for prosecution; (2) it may take a long time to collect enough information for a study because some cases extend over a long period of time; (3) flexibility in changing the design of the logs to meet the collection needs for special studies is hard to achieve when the forms are used daily; and (4) the morale in the office and the quality of the data may be significantly affected because of the on-going nature of the collection.

At present, continuous logging of case activity is more suited for public defender offices, where "clients" are represented and it makes sense to "bill" attorney time to the county or state, especially to compare this work with that performed by contract or court-appointed counsel.

The other is a process sample log, which records activity on every case handled by an attorney in a day. The log is held by the attorney and entries are made throughout the course of the day. The data collected represent a sample of work associated with each of the process steps in the adjudication system.

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Adding up the work for each process step a case is likely to go through produces the estimates which would be forthcoming from a case tracking log.

Experience has shown that the process sample log is best suited for the prosecutor's office since it is usually installed for only six to eight weeks, depending on the volume of work. Although the choice of a logging system is entirely that of the prosecutor's, the factors to be considered are purpose, volume, time and personnel.

If the purpose of the study is to develop case weights or perform a one-time, short-term analysis of a problem area (e.g., the impact of misdemeanor appeals on the felony trial court), then the process sample log is preferred because it can capture the information in a short time. An on-going tracking system might be able to provide the same information if the data were captured as part of its recording process. But otherwise the study would be extended over a long period until a sufficient number of cases were disposed. The process sampling log would be a better choice.

If the volume of cases handled by an office is very large or very small, consideration has to be given to what the logs will capture. In a small office the volume of crimes is low and some types of crimes are rare. For example, while violent crimes are a rarity, drunk-driving cases and property crimes usually predominate. Under these circumstances, a tracking system could be installed without too much difficulty (unless resources were extremely limited). Over time, work on less frequently occurring crimes would be measured along with the common ones. If the sampling log was used, these infrequent events might be missed. If there is a need to develop case weights for small offices, say for example, as part of a statewide study or system, then the case tracking approach could be considered; but only if samples would not suffice.

In high-volume offices, tracking cases is unjustifiable when sampling can provide the desired quantity of information more quickly and with less demand on resources.

Timing plays an important part in the choice of logs. Tracking logs should be considered a permanent investment, or one that exists over a long period of time. As they collect information, they become more valuable. However, they lose flexibility in the process and may become obsolete.

Sampling logs are short-term in nature, are more adaptable and can be repeated if necessary (not less than biennially). Since they are in place for only six to eight weeks, they are also less disruptive to the staff.

Using the logs on a short-time basis to sample work in the office will yield estimates of how attorney time is distributed; provide a picture of the agency's work distribution; collect effort related to criminal prosecutions; and permit analysis of the characteristics and attributes of casework and dispositional routes. However, they are subject to problems with small sample sizes, which will be discussed later.

#### **Design a log to meet the needs of the study.**

No matter which type of log is used, the case tracking or the process sampling, the logs must be designed to meet the objectives of the study. Otherwise, there is no guarantee that subsequent analysis will be possible. For example, if a distinction is not made between felony, misdemeanor and mis lemeanor appeal cases, an analysis of work by these categories could not be made.



Figure 2.2 (cont.)

**INSTRUCTIONS FOR COMPLETING DAILY LOG**

**A. TOTAL TIME WORKED (ALL ATTORNEYS)**

The purpose of this entry is to record how an attorney's time is distributed over a working day. Because an attorney's working day may vary drastically depending on trial status, compensatory time or leave, total time should reflect these conditions.

1. **Time worked on specific criminal cases** refers to adult criminal cases (excluding traffic but including drunk driving cases) that can be identified by a criminal case number. Record time on the log below and enter total here.
2. **Time worked on criminal matters not case specific** includes all attorney time not specified above that is related to criminal prosecutions such as juvenile and traffic matters. It also includes time spent on such simple things as cleaning off your desk, filing papers, preparing for other activities, reading journals or materials, talking to colleagues, training, or administering small operational units.
3. **Time spent on office administrative duties** will apply to only a few attorneys since this category relates to activities that are officewide, such as office administration, management, policy, personnel, records, budgeting, and planning.
4. **Time spent on noncriminal matters** should be recorded in this category. This includes such areas as child support enforcement, civil matters, appeals, and involuntary commitments.

**B. LOG FOR CRIMINAL CASE TIME (ATTORNEYS WITH CRIMINAL CASELOAD)**

1. Enter case number, defendant name, and indicate whether case is a felony or misdemeanor.
2. Effort should be recorded each time it can be identified with a criminal case number (or numbers if cases are joined). One may think of this as being analogous to a private attorney billing his or her time to a client.
3. Time should be classified in three ways: (1) by activity, (2) by its relation to the nearest court process step, and (3) the result of in court appearances.
4. Only one activity, court step, and result should be entered on a line. If more than one occurred, use as many lines as necessary.
5. The results should be interpreted as follows:
  - a. "Hearing completed" means that the scheduled court appearance was completed and the case is scheduled for the next process step.
  - b. "Case disposed" means that the case has been adjudicated by plea, conviction, acquittal, or dismissal. It also is used to show that sentencing has occurred.
  - c. "Case continued" occurs when the scheduled hearing for this case is not reached or concluded and a new appearance is set. If the case is continued for a plea or other disposition then this is separately identified.

- C. Continuation sheets are available if more space is needed for the activities on that date. Use the activity codes from the cover sheet.

— Thank you for your assistance —

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*Process Sample Logs.* Figure 2.2 illustrates the log used for the National Baseline Information study of offender-processing costs funded by the National Institute of Justice. This log is designed to estimate case weights by sampling the work in an office and developing estimates of attorney effort by offense type for each of the process points in the adjudication system.

In the upper left-hand corner of the NBI log, the attorney records the date, his or her name and the unit to which assigned. (This can be used to identify investigators if they are included in the study).

In the upper right-hand corner, the distribution of work is collected. Starting with the total time worked on that date (not including lunch, leave or other non-work activities), time is divided among four categories:

- (1) Case-specific time, which is the sum of the times reported on the lower half of the log;
- (2) Time spent on criminal matters, not billable to a specific case;
- (3) Time spent on office-wide administrative duties such as personnel, budget preparation, liaison with other agencies or the public, conferences and special projects;
- (4) Time spent on non-criminal matters or those areas excluded from the scope of the study (in this case, we have included moving violations, juvenile prosecutions and appeals in this category).

It is very rare to see a log with eight hours reported for total time worked. The nature of prosecution is such that these hours may vary from 12 (if in the midst of a trial) to three if the trial is over and the next afternoon is taken off. Depending on the attorney and his or her duties, items 3 and 4 may never be completed by one attorney and always by another. For example, a new prosecutor assigned to misdemeanor court would not have office-wide administrative duties and would not report any activity in category 4. On the other hand, the chief

prosecutor may distribute his or her time over all four categories. This distribution is essential for allocation and cost studies, because it gives the analyst data to estimate the amounts of time spent by the office on the four functions.

The activity codes in the middle of the form applies to the log just below. It asks the respondent for three pieces of information: what did you do, where did you do it in relation to the adjudication process, and what happened? The purpose is to identify the activity being performed (basically to distinguish between in-court and out-of-court time), and to relate the amount of time spent on that activity to its location in the adjudication process. The "what happened" codes distribute dispositions by where they occur in the process, and are useful for studies of continuances.

Continuances are classified by whether they were made for a disposition (plea, diversion, community service, etc.), or not. Continued for a disposition was identified separately because it should not count in studying court delay problems or practices. The number and rate of cases moving forward from one court process step to another should provide a good indicator of progression and case movement.

The lower part of the log is used by the attorney to record the amount of time spent on case-billable activities. First, the case is identified by its number, its type, (felony, misdemeanor or misdemeanor appeal) and by the defendant's name. (This information is needed as reference for editing and correcting logs and for counting the number of cases, as opposed to entries.)

The next three columns record the appropriate codes for the activity. They record what activity occurred, where it occurred in the adjudication process and the result. The related step always refers to either the actual, in-court step where work occurred (e.g., probable cause hearing) or the next nearest court step if work was not done in court. For example, preparation for a probable cause hearing would be coded as probable cause (the next nearest related step).

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The time spent on the activity is recorded as accurately as possible, and the most serious charge on the case is entered. (Charges are coded later by the editor using the first two digits of the FBI's NCIC codes). Space is left for notes or remarks.

*Case tracking log.* Figure 2.3 illustrates a log designed to track activity on cases. This log is part of the AMICUS system developed by the National Legal Aid and Defender Association for public defender use. This log is simpler in format and design because it is a tracking document.

Case log sheets are placed inside a case folder. On this sheet is recorded all activity about the case including the amount of time either in or out-of-court.

When the case is closed, the information is summarized on a Case Closing Sheet (Figure 2.4). This sheet can be designed to collect as much or as little information as the system needs. It can be coded and is amenable to statistical analysis, including the development of case weights.

The system is straightforward and can be maintained in manual form or the case closing sheets can be automated for analysis. However, it would have to be modified for cost analysis to collect the distribution of attorney work on criminal, administrative and other matters (similar to the information reported on the upper right-hand corner of the NBI log, Figure 2.2).

Since the sampling log is recommended for prosecutorial use, the following procedures and guidelines will use it as illustration.



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Figure 2.4

## CASE CLOSING SHEET

Case		Def. number	Attorney	Date opened	Date closed
Charges		Cl. number	Type of case <input type="checkbox"/> Civ <input type="checkbox"/> Fel <input type="checkbox"/> Misd <input type="checkbox"/> Ord <input type="checkbox"/> Prob. R. <input type="checkbox"/> Juv <input type="checkbox"/> Fam <input type="checkbox"/> I.C <input type="checkbox"/> App <input type="checkbox"/> Other:		
Trial Judge	Sentencing Judge	Prosecutor		Arresting Officer	

<p><b>PERSONAL</b></p> <p>1. SEX 1.1 <input type="checkbox"/> Male 1.2 <input type="checkbox"/> Female</p> <p>2. MARITAL STATUS 2.1 <input type="checkbox"/> Single/Div. 2.2 <input type="checkbox"/> Married 2.3 <input type="checkbox"/> Head of Household</p> <p>3. RACE 3.1 <input type="checkbox"/> White 3.2 <input type="checkbox"/> Black 3.3 <input type="checkbox"/> Hispanic 3.4 <input type="checkbox"/> Asian 3.5 <input type="checkbox"/> Nat. Amer 3.6 <input type="checkbox"/> Other:</p> <p>4. AGE 4.1 <input type="checkbox"/> Under 18 4.2 <input type="checkbox"/> 18-20 4.3 <input type="checkbox"/> 21-25 4.4 <input type="checkbox"/> 26-35 4.5 <input type="checkbox"/> 36-45 4.6 <input type="checkbox"/> 46-55 4.7 <input type="checkbox"/> Over 55</p> <p>5. PRIOR RECORD 5.1 <input type="checkbox"/> None 5.2 <input type="checkbox"/> Juv. only 5.3 <input type="checkbox"/> Yes, No Felony 5.4 <input type="checkbox"/> One Major Felony 5.5 <input type="checkbox"/> Mult. Major Felonies 5.6 <input type="checkbox"/> Dang. Cr. Criminal</p>	<p><b>DISPOSITION/REASON FOR CLOSING OF MAJOR COUNT</b></p> <p>6.1 <input type="checkbox"/> Not Indigent 6.2 <input type="checkbox"/> Conflict of Interest 6.3 <input type="checkbox"/> Client Withdraw 6.4 <input type="checkbox"/> Outside Counsel 6.5 <input type="checkbox"/> Advice Only 6.6 <input type="checkbox"/> Lawyer Referral 6.7 <input type="checkbox"/> Client Jumped Bail or Escaped 6.8 <input type="checkbox"/> Dismissed Before Indict. 6.9 <input type="checkbox"/> Pre Trial Diversion 6.10 <input type="checkbox"/> Incompetent to Stand Trial 6.11 <input type="checkbox"/> Dismissed, No Prob. Cause 6.12 <input type="checkbox"/> Dismissed, Mot. of Def. or Pros. 6.13 <input type="checkbox"/> Plea as Charged 6.14 <input type="checkbox"/> Plea or Sentence Bargain <input type="checkbox"/> Jury Trial 6.15 <input type="checkbox"/> Acquitted 6.16 <input type="checkbox"/> Guilty Lesser 6.17 <input type="checkbox"/> Guilty as Charged <input type="checkbox"/> Bench (Judge) Trial 6.18 <input type="checkbox"/> Acquitted 6.19 <input type="checkbox"/> Guilty Lesser 6.20 <input type="checkbox"/> Guilty as Charged 6.21 <input type="checkbox"/> Trial, not guilty-verdict 6.22 <input type="checkbox"/> Dismissed, Post-Corr. Motion 6.23 <input type="checkbox"/> Post Trial Diversion 6.24 <input type="checkbox"/> Probation Revoked 6.25 <input type="checkbox"/> Probation Continued 6.26 <input type="checkbox"/> Probation Discharged 6.27 <input type="checkbox"/> Other (explain) _____</p>	<p><b>SENTENCE</b></p> <p>7.1 <input type="checkbox"/> Concurrent 7.2 <input type="checkbox"/> Consecutive Fine or Restitution, Amount \$ _____ 7.3 <input type="checkbox"/> Only 7.4 <input type="checkbox"/> Combined</p> <p>7.5 <input type="checkbox"/> Probation: Little or No Supervision, No conditions. 7.6 <input type="checkbox"/> Probation: Intensive Supervision, Court conditions. 7.7 <input type="checkbox"/> Periodic incarceration 7.8 <input type="checkbox"/> Jail: 30 days 7.9 <input type="checkbox"/> Jail: 31 to 180 days 7.10 <input type="checkbox"/> Jail: 181 days to 1 yr 7.11 <input type="checkbox"/> Prison: Over 1, to 2 yrs 7.12 <input type="checkbox"/> Prison: over 2, to 5 yrs 7.13 <input type="checkbox"/> Prison: over 5, to 10 yrs 7.14 <input type="checkbox"/> Prison: over 10, to 20 yrs 7.15 <input type="checkbox"/> Prison: over 20 yrs 7.16 <input type="checkbox"/> Imprisonment for life 7.17 <input type="checkbox"/> Death 7.18 <input type="checkbox"/> Other _____</p> <p>When filling in Sentence, mark the total of the consecutive sentences, adding the minimums. If the sentences are given that way. If the sentences are concurrent, mark the longest of them.</p> <p>BAIL 8.1 <input type="checkbox"/> ROR 8.2 <input type="checkbox"/> Bail Met 8.3 <input type="checkbox"/> Bail Not Met 8.4 <input type="checkbox"/> Custody</p> <p><b>ATTORNEY TIME</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>In Court</th> <th>Out of Court</th> <th>Total</th> </tr> <tr> <td style="text-align:center;">0 HRS TMS</td> <td style="text-align:center;">0 HRS TMS</td> <td style="text-align:center;">0 HRS TMS</td> </tr> </table> <p>Out of Court Time Categories</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>DE</th> <th>FF</th> <th>RS</th> <th>NG</th> <th>TR</th> <th>WT</th> </tr> <tr> <td style="text-align:center;">0 HRS TMS</td> </tr> </table>	In Court	Out of Court	Total	0 HRS TMS	0 HRS TMS	0 HRS TMS	DE	FF	RS	NG	TR	WT	0 HRS TMS					
In Court	Out of Court	Total																		
0 HRS TMS	0 HRS TMS	0 HRS TMS																		
DE	FF	RS	NG	TR	WT															
0 HRS TMS	0 HRS TMS	0 HRS TMS	0 HRS TMS	0 HRS TMS	0 HRS TMS															

Comments \_\_\_\_\_

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**Assign logs to attorneys in the study.**

It may not be necessary for all attorneys to complete the logs. Some may have assignments outside the scope of the study. For example, if juvenile prosecutions are not included in the development of case weights, there is no need to obtain information from attorneys assigned to these cases. Similar considerations may be given to prosecutors handling appeals, civil cases or traffic and moving violations.

Second, in high-volume, fast-moving courtrooms, it may not be necessary to log time spent on individual cases because the work is routine, repetitive and fairly constant. This is particularly true in misdemeanor prosecutions where 50 to 100 cases may pass through a single courtroom in a day.

Under these conditions, the logging function should be modified to record summary information about:

- (1) Type of Hearing (First appearance, misdemeanor trials, etc.)
- (2) Number of cases scheduled by crime category.
- (3) Number of cases disposed by crime category.
- (4) Number of cases sent forward to next court hearing by crime.
- (5) Amount of time spent by attorney out-of-court in preparation.
- (6) Amount of time spent by attorney in court.

This information can be used to estimate average times per case. Averages are satisfactory for this area of work because there is so little time left for variation.

**Check and verify the completeness of each entry.**

The last step in obtaining the necessary ingredients for estimating the amount of time spent by attorneys on criminal prosecutions is the control function of editing and checking the submissions. This is a short-term, but highly labor-intensive activity. It is the real quality control point in the project; it is

the most costly part of the task but the most important because the case weights will be based on small samples and every piece of information is needed if the logging period is to be kept to a minimum and the results are to be valid.

The checks are routine. They involve:

- (1) A verification that each logged entry is complete (every column filled out), logical and consistent (if the activity is in court, for example, the entry cannot be "not applicable;" out-of-court activity cannot show an in-court disposition, it must be "not applicable.") Some activities are consistent with only a few types of court hearings. For example, preparation for sentencing is not an activity likely to be associated with a first appearance in the lower court.
- (2) A check on the arithmetic. The sum of the time spent on case-specific activities should be checked and it should be verified that this amount also has been entered in the top right-hand part of the log where the work day is distributed.
- (3) A verification of the addition in the distribution of hours and minutes among case-specific duties, criminal general, administrative and other.

Whenever an error, omission or inconsistency occurs, we recommend that the area in question be highlighted on the log, and, if necessary, a note can be attached asking for specific information. Then the original log is returned to the attorney and a copy kept for control purposes. This procedure will enhance the reliability of the results. The effort expended on this stage is vital to the reliability of the case weights.

Once this step has been completed, the logs can be sent to data processing for automation and analysis.

#### Some practical considerations.

Since the logs cannot be constructed retrospectively but have to be maintained on a daily basis, their completion can be enhanced if they are turned in daily to a central source (the

chief prosecutor's secretary is a likely choice). If submissions are checked off, and excuses required for non-submissions, delays in completing the study are less likely to occur.

This brings up the last and most sensitive issue -- personnel support and morale. No logging system, no matter how good, will work without the wholehearted support of the chief prosecutor. Even then, the morale of the staff must be considered. In some jurisdictions, the staff will tolerate six to eight weeks of data collection, but not a permanent fixture. Each office has to be guided by its own personnel circumstances.

## DEVELOPING CASE WEIGHTS

In this section we will show how the ingredients -- case statistics and attorney effort -- are processed for use in caseweighting systems.

### Case Statistics.

Most of the processing of case statistics has been accomplished if flow charts have guided the data collection. The data recorded on the flow charts, or collected on other forms, simply need transferring to tabular format (see Table 2.1 for an illustration). Each type of offense has its own flow derived from the number of cases processed through the steps.

The first column in Table 2.1 shows the case statistics by process step and for each offense category. The number of cases does not necessarily decrease steadily because of attrition during progress through the system; this may be due to direct entries to a process step or waivers of other steps. For example, direct grand jury indictments will bypass the entire on-scene arrest flow through lower court processing and come directly into the "felony" court, thereby increasing the felony court arraignments. Misdemeanor appeals will add to the felony court caseload either at arraignment or at a pretrial readiness hearing. Preliminary hearings or grand jury proceedings may be waived.

The cost of case processing relies on the probabilities (or branching ratios) of cases being disposed of at any process step. The branching ratios indicate the percent of cases expected to move forward or drop out of the system; the flow charts are the source for this information.

The second column in Table 2.1 reports the case weights or the average amount of attorney effort associated with these process steps.

### Attorney Effort and Case Weights.

Attorney effort is the amount of time spent on each activity related to prosecuting a criminal case. If a case tracking log, such as the AMICUS log, is used, then the information is simply sorted by crime category and process step, and averages are computed.

If the process sample log is used, the procedures are a little more complicated:

- (1) Sort the data to show the total number of minutes logged:
  - a. by offense type; b. by whether the activity occurred in-court, out-of-court or was an investigation; c. by its location in the process (related step); and d. by the identification number of the case. This listing is the basis for the weights.
- (2) Starting with each related step, calculate for each of the three activity categories (in-court, out-of-court and investigations) the total number of minutes logged and the number of cases logged. Do not record the number of entries logged, or records, because one case may have had multiple entries during the logging period).
- (3) Divide the total minutes in each category by the number of cases in that category to obtain the average time per category. Then add the average out-of-court time to the average in-court time to produce the total time spent by crime type at the specific process step. (The sum of the two averages is used to estimate process step time because they are two separate and different activities.

Investigations are also separately computed.)

- (4) Translate the total minutes into hours for ease of presentation. Depending on the length of the logging period and the volume of work in the office, small sample sizes or even empty cells will occur. For example, a small jurisdiction may not have a single jury trial for a drug offense in a year. Since the distribution of the crime categories established here is uneven, it is very likely that some cells will reflect this condition.

To mitigate this problem, we can turn to expert opinion and "best guesses." The recommended procedure is to have the cells in question reviewed by the first assistant in the office and the chief of the unit involved with the process step in question. Using the other time data to set limits on the existing ranges of effort, they can be asked to estimate times for the missing cells, or to modify or validate the times shown in these cells.

When the times are estimated, they are multiplied by the number of cases processed in each step to obtain the average estimated workload for all attorney hours expended on case-specific prosecutions, by crime type. (As shown in column three of Table 2.1)

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Table 2.1  
Annual Workload by Crime Type and Process Step  
for the District Attorney's Office

Type of Crime	Process Step	No. Cases Processed	Avg. Time (Hours) *	Workload (Hours)
Violent Felonies	Pre-Warrant Papering	698	.1	69.8
	Dis.Ct.-Bond/Counsel Set	598	.3	179.4
	Post Warrant Papering	598	.1	59.8
	Probable Cause	400	1.0	400.0
	Grand Jury	311	.2	62.2
	Arraignment	221	1.3	287.3
	Calendar Call	310	2.1	651.0
	Motions	12	1.3	15.6
	Plea	111	1.3	144.3
	Jury Trial	199	4.7	935.3
	Sentencing	177	2.7	477.9
	TOTAL			3,282.6
Property Felonies	Pre-Warrant Papering	2,744	.1	274.4
	Dis.Ct.-Bond/Counsel Set	2,367	.4	946.8
	Post Warrant Papering	2,367	.1	236.7
	Probable Cause	1,455	.5	727.5
	Grand Jury	1,256	.3	376.8
	Arraignment	864	.6	518.4
	Calendar Call	752	1.2	902.4
	Motions	34	.6	20.4
	Plea	442	.6	265.2
	Jury Trial	310	2.6	806.0
	Sentencing	831	.6	498.6
	TOTAL			5,573.2
Drug Felonies	Pre-Warrant Papering	472	.1	47.2
	Dis.Ct.-Bond/Counsel Set	472	.5	236.0
	Post Warrant Papering	472	.1	47.2
	Probable Cause	206	.5	103.0
	Grand Jury	310	.2	62.0
	Arraignment	195	.9	175.5
	Calendar Call	188	.5	94.0
	Motions	8	.9	7.2
	Plea	137	.9	123.3
	Jury Trial	51	1.7	86.7
	Sentencing	240	.7	168.0
	TOTAL			1,150.1

Table 2.1 (cont.)  
Annual Workload by Crime Type and Process Step  
for the District Attorney's Office

Type of Crime	Process Step	No. Cases Processed	Avg. Time (Hours) *	Workload (Hours)
Other	Pre-Warrant Papering	281	.1	28.1
Felonies	Dis.Ct.-Bond/Counsel Set	249	.3	74.7
	Post Warrant Papering	249	.1	24.9
	Probable Cause	129	.5	64.5
	Grand Jury	99	.1	9.9
	Arraignment	458	2.3	1,053.4
	Calendar Call	457	.7	319.9
	Motions	2	2.3	4.6
	Plea	203	2.3	466.9
	Jury Trial	254	3.5	889.0
	Sentencing	252	.8	201.6
	Probation/Parole Revoc.	69	1.0	69.0
	TOTAL			3,206.5
	All	Pre-Warrant Papering	4,195	.1
Felonies	Dis.Ct.-Bond/Counsel Set	3,686	.4	1,436.9
	Post Warrant Papering	3,686	.1	368.6
	Probable Cause	2,190	.6	1,295.0
	Grand Jury	1,976	.3	510.9
	Arraignment	1,738	1.2	2,034.6
	Calendar Call	1,707	1.2	1,967.3
	Motions	56	.9	47.8
	Plea	893	1.1	999.7
	Jury Trial	814	3.3	2,717.0
	Sentencing	1,500	.9	1,346.1
	Probation/Parole Revoc.	69	1.0	69.0
	TOTAL			13,212.4
	Misdem.	First Appearance	11,809	.1
Bench Trial		2,565	.2	513.0
Plea		9,271	.2	1,854.2
TOTAL				3,548.1
	Appealed	606		

\* Source: Time logs maintained by the attorneys.

## OTHER TECHNIQUES USED TO ESTIMATE WORK

Because logs are not enthusiastically accepted by attorneys, other alternatives have been proposed to make this task easier. There are basic differences between these techniques and logs, however, which make them unsuitable for case weighting systems. They either use an assumption of equality which is contradictory to the whole idea of case weights, or they are not capable of identifying differences on an individual attorney level which severely limits their usefulness. It is very important that the prosecutor knows exactly the limitations of these alternatives to protect the agency from using erroneous data for decisionmaking merely to obviate resistance or reduce costs.

### Workload indicators.

These stratify the manpower requirements of an agency by the number of man-years (or months) needed to perform given units of legal work. (See the citations for the California Department of Justice and Santa Clara County in the bibliography). For example, the total number of man-years assigned to brief writing divided by the number of briefs estimates the average time needed for brief-writing. Similarly, the total number of cases processed at preliminary hearings divided by the cost of the man-years (or months) will estimate the per case costs for this step.

The major criticism to this approach is that it assumes equality in work. We know that such use of simple averages is misleading if not outright erroneous. Since the variations in the levels of effort are lost, the information has limited value. It may be helpful in budget justification hearings, but even for this purpose other, more informative approaches exist.

### The Delphi method.

This method consists of developing case weights based on information gathered from interviews with individuals who have experience in the field and who reach a consensus. The technique has been used in the Pennsylvania Case Weight Study

which derived estimates of time spent on judicial activities from the consensus of judge responses supplemented with follow-up interviews. Comparisons with actual data showed that the results were reliable in establishing case weights for specific classes of dispositions.

The primary benefits of the Delphi method are that it is economical and imposes few demands on the respondents. It assumes that experienced personnel can accurately estimate the amount of effort spent on tasks and that the consensus of the respondents will produce reliable measures. In addition, it allows for the inclusion of qualitative factors and variables that may not be captured by time logs.

The limitations of this technique are incorporated in its method and assumptions. It depends on both the ability of the interviewer (or the survey instrument) to separate the common and routine tasks from the exceptional, and the ability of the respondent to do the same. This is particularly difficult when estimating attorney time because of attorneys' predilection to focus on exceptional cases and precedents. If there is a repetitiveness to the work which can be described by consensus, the Delphi method may prove valuable for developing case weights. But until proven, it should be viewed with some skepticism.

Its major shortcoming, however, is that it does not capture individual variations in effort but only an average, agreed upon, level of effort. This restricts its utility for productivity analysis or performance appraisal. Nor is it capable of being verified by other means. If observers are used to do this, then called into question is the quality of the observation.

We have chosen logs because they produce reliable information (see the appendix), objective and quantifiable information and at a level of detail which has the greatest value to the prosecutor.

### III. Ingredients for Cost Analysis

#### Introduction.

Caseweighting systems used for cost analysis are useful and valuable. However, the developmental costs go up substantially. A prosecutor should weigh carefully the need for such a study and its benefits before investing in a cost analysis study. In many instances, the caseweighting systems using attorney hours will suffice. If costs are wanted for budgeting or planning purposes, then two ingredients in addition to those specified in the preceding chapter are needed.

They are: (1) information describing the organization of the office, its personnel assignments and; (2) costs. For this manual only labor costs will be discussed since they comprise most of the agency's variable costs and are better suited for jurisdictional comparisons. Other direct costs such as travel, contractual services, equipment, supplies, etc. have been excluded because they are not usually variable by type of crime or dispositional route. If desired, they can be distributed proportional to the labor costs.

#### Ingredients for Cost Analysis.

Recall that the approach advocated here for costing prosecution services is based on the cost of attorney hours spent on individual case prosecutions onto which is loaded the other indirect costs from non-case-specific activities, administration and support. The information needed to allocate labor and its costs is comprised of:

- (1) a table of organization, which shows how attorney and non-attorney support staff are utilized;

## 50 Caseweighting Systems for Prosecutors

- (2) a list of personnel (attorney and staff) with their time distributed by functional activity;
- (3) the calculation of leave rates to obtain hours available for work;
- (4) annual expenditures on wages, salaries and fringe benefits.

### Develop a Table of Organization.

The table of organization should identify the attorney staff which will be included in the logging activity. It should also identify those persons or organizational units having office-wide administrative responsibilities.

### Distribute time by functional activity.

There are two ways to determine personnel time spent on adult criminal prosecution, administration or other activities. The first is to design a form that lists all attorney and non-attorney staff by name, and ask each to distribute his or her time by the percent devoted to criminal, administration and other duties. This approach works well in medium-to-small offices. In some cases, the assignments are known by the chief administrator, who can complete the form without sending it to the staff. An example of this form is shown in Figure 3.1 below.

If the office is large, this information is more reliably obtained from each employee through logs. (Figure 3.2). For attorneys, the information is forthcoming from the time logs. Non-attorneys must keep track of their time for a typical pay period.

Figure 3.1  
Percent Distribution of Personnel Time

	Annual Available Hours	All Activities			Criminal		
		Crim- inal	Other	Adminis- tration	Felony	Misde- meanor	Juve- nile
<b>Attorney</b>							
Smith	1,792	20	35	45	100	0	0
Green	1,792	90	0	10	100	0	0
Johnson	1,816	100	0	0	90	10	0
White	1,816	100	0	0	85	10	5
Miller	1,816	80	20	0	90	5	5
Brown	1,816	100	0	0	70	20	10
Powell	1,816	100	0	0	90	10	0
Rogers	1,816	100	0	0	75	20	5
Murphy	1,816	80	20	0	0	20	80
Thompson	1,816	100	0	0	5	95	0
Morgan	1,816	50	50	0	0	100	0
Williams	908	100	0	0	100	0	0
Kelley	908	0	100	0	0	0	100
<b>Non-attorney</b>							
Clark	1,816	0	0	100	0	0	100
Lewis	1,816	75	25	0	15	10	
Jackson	1,816	75	15	10	75	20	5
Taylor	908	100	0	0	75	25	0
Jones	908	100	0	0	75	25	0
<b>Total</b>							
All Staff	29,008						
Attorney	21,744						
Non-attorney	7,264						

Figure 3.2  
Daily Log of Attorney Effort by Activity

Attorney Name: Jones		Unit: Trials			
Date	Hours Worked	Admin.	Other	Criminal	
				Felony	Misdemeanor
5/6	10.5	1.0		9.5	
5/7	6.0	6.0			
5/8	8.0		2.5	0.5	5.0
5/9	9.5			4.0	5.5
5/10	8.5			8.5	
5/13	10.0	1.0	3.0	6.0	
5/14	7.5			7.5	
5/15	9.5			4.6	4.9
5/16	8.0			0.5	7.5
5/17	9.0		8.0	1.0	

This list has two values: first, it identifies those who are involved with adult criminal prosecution and the administrative services that support this activity; second, it shows what proportion of their time (labor cost) is spent on prosecution and administration.

#### Calculate leave rates and hours available for work.

Personnel costs are based on the number of days worked by employees plus the number of days available for leave. Full-time employment assumes 261 paid days per year, or 2088 hours. (This figure may vary by jurisdiction). Some proportion of the 261 days is set aside for leave, which includes vacation, holidays, sick leave and other. This should be subtracted from the amount of time budgeted so that the time available for work can be calculated. It is work time which caseweighting systems use and which forms the basis for cost analysis.

Since leave benefits may vary because of length of employment or part-time status, the hours available for work may also vary. Therefore, it is necessary to calculate how many hours were paid for, how many were set aside for leave and the balance, which is hours available for work. An example of a form

for doing this is presented in Figure 3.3.

Leave rates for attorneys are calculated by dividing the number of hours set aside for leave by the total number of attorney hours budgeted. Leave rates for non-attorney personnel are similarly computed.

We can assume that vacation and holiday leave are used in the year they are earned. However, this does not necessarily hold for sick leave, much of which is accrued and will not show in annual expenditure reports. Therefore, the cost of leave should be inflated by some factor to reflect this accrual. The factor can be determined from an examination of payroll records or by estimate.

**Obtain actual expenditure data from the finance office(s).**

Sometime after the end of the fiscal year, actual expenditures are available through the finance or budget office. If funds are received from more than one agency, such as the county and the state, or the city and the county, the expenditure sheets from each are needed.

From the expenditure data, the prosecutor can extract the labor costs (including contractual labor if it is used to prosecute adult criminal cases), the fringe benefits expended for retirement, FICA, unemployment insurance, medical and hospital insurance, etc. and other associated labor costs such as longevity pay.

Now, with all the necessary ingredients, we can turn to the development of case weights and an examination of their uses.

**Developing Costs of Prosecution.**

Costs may be applied to the levels of attorney effort expended by crime type and by process step location. To do this requires a three stage procedure:

Figure 3.3  
Calculation of Leave Rates and Hours Available for Work  
Loss Days for:

Name	Personnel Classification	Annual Hours	Annual Leave days	Holi- Sick	Annual Leave Hours	Annual Available Hours	
<b>ATTORNEY</b>							
Smith	Dist. Attny	2,080	15	11.0	10	288	1,792
Green	Chief Asst.	2,080	15	11.0	10	288	1,792
Johnson	ADA	2,080	12	11.0	10	264	1,816
White	ADA	2,080	12	11.0	10	264	1,816
Miller	ADA	2,080	12	11.0	10	264	1,816
Brown	ADA	2,080	12	11.0	10	264	1,816
Powell	ADA	2,080	12	11.0	10	264	1,816
Rogers	ADA	2,080	12	11.0	10	264	1,816
Murphy	ADA	2,080	12	11.0	10	264	1,816
Thompson	ADA	2,080	12	11.0	10	264	1,816
Morgan	ADA	2,080	12	11.0	10	264	1,816
Williams	ADA	1,040	6	5.5	5	132	908
Kelley	ADA	1,040	6	5.5	5	132	908
<b>NON-ATTORNEY</b>							
Clark	Adm. Aide 1	2,080	12	11.0	10	264	1,816
Lewis	Legal Steno 1	2,080	12	11.0	10	264	1,816
Jackson	Clerk/Typist 3	2,080	12	11.0	10	264	1,816
Taylor	Law Clerk	1,040	6	5.5	5	132	908
Jones	Law Clerk	1,040	6	5.5	5	132	908
<b>TOTAL</b>							
All Staff		33,280	198	176.0	180	4,272	29,008
Attorney		24,960	150	132.0	120	3,216	21,744
Non-attorney		8,320	48	44.0	40	1,056	7,264
<b>OFFICE LEAVE RATE</b>							
Attorneys			12.0				
Non-attorneys			12.7				
RATIO: Attorneys to Nonattorneys Hours Available is 2.99							

- (1) It begins with obtaining the fiscal year labor expenditures of the agency;
- (2) Then it separates from the total those expenditures for attorney and non-attorney labor which are directed to adult criminal prosecutions (as provided by the logs and personnel data).
- (3) These are then distributed in proportion to the amount of effort expended by attorneys (the case weights) on adult criminal case prosecutions.
- (4) The tables which illustrate this technique follow with commentary.

In Table 3.1, expenditures are divided into three categories: working day salary, leave fringe and non-leave fringe for attorney and non-attorney staff. The distribution of the total labor expenditures between these categories is based on calculating the number of days worked and the number of fringe days. Then expenses for non-fringe employees (part-time or contractual personnel) are added to the working day salary expenditures. Leave fringe is adjusted to reflect accrued sick leave since the expenditure reports will not show this cost.

**Table 3.1**  
**Personnel Cost Summary**  
**For the District Attorney's Office**

	Attorneys	Non-attorneys	Agency Total
<b>Annual Working Day's Salary</b>	<b>\$528,700</b>	<b>\$116,400*</b>	<b>\$645,100</b>
<b>Leave Fringe</b>	<b>61,400</b>	<b>19,000</b>	<b>80,400</b>
<b>Nonleave Fringe</b>	<b>114,900</b>	<b>31,800</b>	<b>146,700</b>
<b>Total Labor</b>	<b>705,000</b>	<b>167,200</b>	<b>872,200</b>

\* Includes \$1,300 not subject to leave fringe.

In Table 3.2, the percentage of attorney time spent on the different types of work in the office is used to distribute the expenditures for attorneys. The percent distribution among types of work is calculated from the upper right hand corner of

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the log. The important figure produced by this table is the cost of case-specific criminal work. This is the cost directly relatable to the attorney hours logged.

**Table 3.2**  
**Distribution of Attorney Time and Costs by Function**  
**For District Attorney's Office**

Function	Average Pct. of Time*	Cost
Case-specific criminal work	55.4	\$390,500
Non-case-specific criminal work	33.8	238,300
Non-criminal work	2.2	15,500
Office-wide administration	8.6	60,600

\* Estimates are a combination of logged information provided by criminal attorneys and supplied by office administrator for attorneys who were not logged.

The case-specific cost will be distributed over the adjudication system based on attorney effort. Once that distribution has been made, then the other two related costs (non-case-specific criminal work and a share of office-wide administration) can be loaded onto the case-specific costs to produce a fully loaded cost for the prosecution of criminal cases by process step and type of crime.

**Table 3.3**  
**Case-specific Attorney Costs**  
**for District Attorney's Office**

Workload (Hours)*	Case-specific Costs	Hourly Cost
16,760.5	\$390,500	\$23.30

\* Source: Table 2.1

In Table 3.3, the total number of hours billed to specific cases is divided into the case-specific costs to produce a direct hourly cost for attorneys. The direct attorney hourly rate is

important because this is the figure that will be inflated by the other costs to yield the agency's hourly costs for prosecution.

**Table 3.4**  
**Non-attorney Labor Costs and Rates**  
**For District Attorney's Office**

Total Salaries and Fringe*	\$167,200.00
Total Non-administrative	116,200.00
Felony	85,300.00
Misdemeanor	10,900.00
Noncriminal	20,100.00
Total Administrative	51,000.00
Felony	37,400.00
Misdemeanor	4,800.00
Non-criminal	8,800.00
Salaries and Fringe - Criminal	138,400.00
Felony	122,700.00
Misdemeanor	15,600.00
Direct Support Rates**	
Felony	31.42
Misdemeanor	4.00
Rates used to Estimate***	
Felony work	51.00
Misdemeanor work	6.50
Non-criminal	12.00
Office administration	30.50
Administrative Felony	73.38
Administrative Misdemeanor	9.35

\* Source: Table 3.1

\*\* Based on percent of felony and misdemeanor salaries and fringe to case-specific criminal work (see Table 3.3).

\*\*\* Estimates made by office administrative assistant except administrative felony and administrative misdemeanor which are based on percent of non-administrative costs for felony and misdemeanor.

Once the attorney expenditures have been distributed, attention can be turned to distributing non-attorney costs. From the personnel time sheets, the percentage of direct time spent by non-attorneys on felony and misdemeanor casework

can be calculated. Office administration work can be divided among criminal and non-criminal, felony and misdemeanor by assuming that the same direct rates apply to the indirect (administrative) duties. This distribution is shown in Table 3.4

Dividing the total non-attorney expenditures for felony work (and again for misdemeanor work) by the total attorney expenditures on crime-specific work (Table 3.3) yields two rates which are the direct support rates for felonies and misdemeanors. These rates will be used in loading non-attorney costs onto the attorney hourly costs.

We now have calculated case-specific attorney hourly rates (Table 3.3) and the rate of non-attorney expenditures which can be applied to them (Table 3.4).

To complete the computation, we need to distribute the other costs associated with non-case-specific criminal work and a share of the administrative costs.

We will do this by estimating the ratio of non-case-specific (general) criminal work to case-specific work, and the ratio of administrative work to case-specific. These rates are more easily computed if the total labor expenditures of the agency are compiled into tabular form (Table 3.5).

If direct costs and other administrative costs borne by the county or state are also included in the study, this table would be expanded, but the distinction between criminal and non-criminal would have to be maintained in these categories as well.

Finally all the rates have been computed, and the fully loaded hourly costs can be calculated (Table 3.6) for each of the offense categories by adding to the basic attorney rate, the rates for general, non-case-specific duties, administration and support staff.

If total expenditures were to be estimated, then to this figure would be added the non-personnel costs, fair market rent, capital costs and county and/or state administrative costs.

Table 3.5  
 Distribution of All Labor Expenditures by Type  
 for District Attorney's Office  
 Fiscal Year 1983

	Attorney*	Non-attorney**	Total
Total Labor Expenditures	\$704,900	\$167,200	\$872,200
Non-administrative Labor	644,300	118,200	760,500
Total Criminal	628,800	96,200	725,000
Criminal case-specific	390,500		
Criminal general	238,300		
Total Non-criminal	15,500	20,100	35,600
Agency Administrative Labor	60,600	51,000	111,600
Total Criminal	59,200	42,200	101,400
Total Non-criminal	1,500	8,800	10,300

\* Source: Table 3.1

\*\* Source: Table 3.4

Table 3.6  
 Rates for Estimating Workload Costs  
 For District Attorney's Office

	Labor Rates	Cost
Attorney hourly rate*		\$23.30
General work	0.6101	14.22
Office Admin.	0.1515	3.53
Support, felony	0.3142	7.32
Support, misd.	0.0400	.93
Total hourly labor rate		<u>\$49.30</u>

\* Source: Table 3.3. All other rates from Tables 3.4 and 3.5

Table 3.7  
 Labor Costs for Processing  
 VIOLENT CRIMES

Process Step	No. of Effort		Process Costs		
	Cases	(Hours) Per Case	* Total	Cumulative	
Pre-warrant Paper	698	.1	\$4.93	\$3,441.14	\$3,441.14
First Appearance	598	.3	14.79	8,844.42	12,285.56
Post-warrant Paper	598	.1	4.93	2,948.14	15,233.70
Probable Cause	400	1.0	49.30	19,720.00	34,953.70
Grand Jury	311	.2	9.86	3,066.46	38,020.16
Arraignment	221	1.3	64.09	14,163.89	52,184.05
Calendar Call	310	2.1	103.53	32,094.30	84,278.35
Motions	12	1.3	64.09	769.08	85,047.43
Plea	111	1.3	64.09	7,113.99	92,161.42
Jury Trial	199	4.7	231.71	46,110.29	138,271.71
Sentencing	177	2.7	133.11	23,560.47	161,832.18
TOTAL CASES PROCESSED				764	
TOTAL COST					\$161,832.18
AVERAGE COST PER CASE					\$211.82

\* Based on hourly rate of \$49.30, which includes direct and indirect labor costs (salary, fringe, and agency administrative costs).

Table 3.8  
Labor Costs for Processing  
PROPERTY CRIMES

Process Step	No. of Effort		Process Costs		
	Cases	(Hours) Per Case	* Total Costs	Cumulative	
Pre-warrant Paper	2,744	.1	\$4.93	\$13,527.92	\$13,527.92
First Appearance	2,367	.4	19.72	46,677.24	60,205.16
Post-warrant Paper	2,367	.1	4.93	11,669.31	71,874.47
Probable Cause	1,455	.5	24.65	35,865.75	107,740.22
Grand Jury	1,256	.3	14.79	18,576.24	126,316.46
Arraignment	864	.6	29.58	25,557.12	151,873.58
Calendar Call	752	1.2	59.16	44,488.32	196,361.90
Motions	34	.6	29.58	1,005.72	197,367.62
Plea	442	.6	29.58	13,074.36	210,441.98
Jury Trial	310	2.6	128.18	39,735.80	250,177.78
Sentencing	831	.6	29.58	24,580.98	274,758.76
<b>TOTAL CASES PROCESSED</b>			<b>2,852</b>		
<b>TOTAL COST</b>				<b>\$274,758.76</b>	
<b>AVERAGE COST PER CASE</b>					<b>\$96.34</b>

\* Based on hourly rate of \$49.30, which includes direct and indirect labor costs (salary, fringe, and agency administrative costs).

Table 3.9  
 Labor Costs for Processing  
 DRUG CRIMES

Process Step	No. of Effort		Process Costs		
	Cases	(Hours) Per Case	* Total Costs	Cumulative	
Pre-warrant Paper	472	.1	\$4.93	\$2,326.96	\$2,326.96
First Appearance	472	.5	24.65	11,834.80	13,961.76
Post-warrant Paper	472	.1	4.93	2,326.96	16,288.72
Probable Cause	206	.5	24.65	5,077.90	21,366.62
Grand Jury	310	.2	9.86	3,056.60	24,423.22
Arraignment	195	.9	44.37	8,652.15	33,075.37
Calendar Call	188	.5	24.65	4,634.20	37,709.57
Motions	8	.9	44.37	354.96	38,064.53
Plea	137	.9	44.37	6,078.69	44,143.22
Jury Trial	51	1.7	83.81	4,274.31	48,417.53
Sentencing	240	.7	34.51	8,282.40	56,699.93
<b>TOTAL CASES PROCESSED</b>			<b>494</b>		
<b>TOTAL COST</b>				<b>\$56,699.93</b>	
<b>AVERAGE COST PER CASE</b>				<b>\$114.78</b>	

\* Based on hourly rate of \$49.30, which includes direct and indirect labor costs (salary, fringe, and agency administrative costs).

Table 3.10  
 Labor Costs for Processing  
 OTHER FELONIES

Process Step	No. of Effort		Process Costs		
	Cases	(Hours)Per Case	*Total Costs	Cumulative	
Pre-warrant Paper	281	.1	\$4.93	\$1,385.33	\$1,385.33
First Appearance	249	.3	14.79	3,682.71	5,068.04
Post-warrant Paper	249	.1	4.93	1,227.57	6,295.61
Probable Cause	129	.5	24.65	3,179.85	9,475.46
Grand Jury	99	.1	4.93	488.07	9,963.53
Arraignment	458	2.3	113.39	51,932.62	61,896.15
Calendar Call	457	.7	34.51	15,771.07	77,667.22
Motions	2	2.3	113.39	226.78	77,894.00
Plea	203	2.3	113.39	23,018.17	100,912.17
Jury Trial	254	3.5	172.55	43,827.70	144,739.87
Sentencing	252	.8	39.44	9,938.88	154,678.75
Probation/Parole Revocation	69	1.0	49.30	3,401.70	158,080.45
<b>TOTAL CASES PROCESSED</b>	<b>760</b>				
<b>TOTAL COST</b>				<b>\$158,080.45</b>	
<b>AVERAGE COST PER CASE</b>				<b>\$208.00</b>	

\* Based on hourly rate of \$49.30, which includes direct and indirect labor costs (salary, fringe, and agency administrative costs).

Table 3.11  
Labor Costs for Processing  
MISDEMEANORS

Process Step	No. of Effort		Per Case *	Process Costs	
	Cases	(Hours)		Total Costs	Cumulative
First Appearance	11,809	.1	\$4.93	\$58,218.37	\$58,218.37
Plea	9,271	.2	9.86	91,412.06	149,630.43
Bench Trial	2,565	.2	9.86	25,290.90	174,921.33
TOTAL CASES PROCESSED			14,274		
TOTAL COST				\$174,921.33	
AVERAGE COST PER CASE				\$12.25	

\* Based on hourly rate of \$49.30, which includes direct and indirect labor costs (salary, fringe, and agency administrative costs).

#### Processing Costs.

The hourly labor rate can now be applied to the workload tables that were discussed in Chapter 2 (Table 2.1) and the labor costs for processing each of the crime categories can be produced. Examples of these are shown in Tables 3.7-3.11.

The tables indicate total costs and per case costs for each of the steps and for each crime category. The costs are cumulated to give proof to the need for early case resolution and the high costs of delay. These processing costs provide the prosecutor with the basic information for operations, management and planning.

Table 3.12  
Average Attorney Hours per Case  
by Crime Type

	Violent	Property	Drug	Other	Misdemeanor
Avg. Hours	4.30	2.0	2.30	4.20	0.20
Per case cost	211.82	96.34	114.78	208.00	12.25

If we divide the hourly rate into the average cost per case, we can also calculate the average number of attorney hours spent on each type of case. The results are shown in Table 3.12.

The mix between crime type and where the case is disposed is the major determinant of the cost of prosecution within a jurisdiction. Because this becomes clear when process costs are examined, target areas for reductions in costs can be identified and programs can be developed and tested to see if they are effective. Under restrictive funding conditions, this type of analysis is of great value since the potential dollar savings can be specified and sought.

## IV. Comparing the Costs of Prosecution

### Introduction.

Comparing caseloads, salaries, size of office, dispositions, and conviction rates is as natural to prosecutors as trying a case. The same applies to comparing costs.

However, comparisons of raw data like case costs are troublesome because the differences can be due to any number of factors which affect costs and their relative effects are hidden. For example, if the per case cost for prosecuting violent crimes in one jurisdiction is \$1,900, in another \$700 and in the third, \$200, why the differences and what causes them?

This chapter compares case costs in four jurisdictions and shows how they differ because of salary differentials, support levels, system capacity, and court procedures and productivity. We will see that the main reason for these differences can be traced to variations in adjudication procedures.

We can show the impact of these procedural differences on costs by showing how much it would cost to transfer the probable cause hearing procedures and jury trials in one jurisdiction to others. This argues against the comparison of real costs unless there is comparability in salary, staffing, productivity and procedures. These systemic and procedural differences have a strong impact on the costs of prosecution.

Presented are the labor costs associated with prosecuting five types of offenses in four jurisdictions, which are labeled East, MidAtlantic (MidA), South and West. They reflect real labor costs estimated at each of the sites for fiscal year 1983/84.

## Jurisdiction Fact Sheet.

Each of the four jurisdictions differs from the others in caseload, system flow, size of office and funding levels, and court structure. Table 4.1 provides a comparative overview.

Table 4.1  
Selected Characteristics of Jurisdictions

Characteristic	West	MidA	South	East
Cases Filed*	19,102	3,126	19,182	24,490**
Felony	1,883	1,192	4,888	
Misdemeanor	17,219	1,934	14,274	
Type of accusatory process	No grand jury	Prelim Hrg. to grand jury	Probable cause to grand jury	No grand jury
Number of attorneys	59	11	21	84
Number attorneys: full-time criminal (FTE)	40.3	8.1	20.3	58.4
Felony cases/FTE	47	147	241	na
Labor Cost***	\$4,140,200	\$1,047,300	\$824,200	\$3,657,100
Hourly labor cost****	\$169.82	\$45.50	\$49.37	\$51.78

\* Defendant based counts.

\*\* Unified court system processes felonies and misdemeanors in the same way.

\*\*\* Includes direct and indirect labor plus administrative costs for adult criminal case processing.

\*\*\*\* Fully loaded attorney hourly cost.

As the above indicates, there are differences among the sites. West and South have about the same caseload, but there are more felony cases in the South. MidA has the smallest caseload and the fewest attorneys. Even the range in the number of felony cases per full-time equivalent (FTE) criminal attorney is broad; from a high of 241 in South to a low of 47 in West.

With respect to labor costs, West has the highest expenditures and South the lowest. East has the largest volume of cases, the most attorneys and labor costs that are second only to West. In terms of workload and funding, West enjoys the best environment with a relatively low caseload and high expenditures on labor.

## THE COSTS OF PROSECUTION

Table 4.2 presents the labor costs for prosecuting various crime categories in the four jurisdictions.

Table 4.2  
Labor Costs of Prosecution  
by Offense Type and Jurisdiction

	West	MidA	South	East
<b>Felony</b>				
Violent	\$1,063,200	\$163,100	\$158,300	\$872,900
Property	705,700	132,900	268,700	942,900
Drug	477,900	27,700	55,400	236,600
Other Felony	210,300	33,100	154,600	1,645,800
<b>Misdemeanor</b>	1,790,900	75,200	171,100	na*

\* Misdemeanors are distributed within felony offense categories.

Not only do processing costs vary by type of crime and among the jurisdictions; but they also do not follow the same distribution pattern. Violent crimes are the highest in 2 of the 4 sites. (West and MidA). Property crimes are the most expensive in South and other felonies in East. In West, misdemeanor cases consume the largest part of the costs, even more than violent crimes.

The average costs per case are presented in Table 4.3. These costs will be adjusted subsequently to examine the factors affecting these costs.

Instantly noticeable is the fact that the per case costs in West are the highest in every category of crime. The lowest costs are, with one exception, found in South and the small office represented by MidA has higher costs than the large office, East. Without exception, the highest per case costs are attached to violent crimes, and the lowest to misdemeanors. In East, since misdemeanors and felonies are all processed in the same unified court system, a differentiation is not made.

Table 4.3  
Average Cost Per Case  
by Crime Type and Jurisdiction

	West	MidA	South	East
<b>Felony</b>				
Violent	\$1,882	\$691	\$205	\$256
Property	1,312	232	94	138
Drug	1,124	204	110	154
Other	592	133	203	129
<b>Misdemeanor</b>	104	39	12	na

This is the table that most offices would use to show the range of cost differences which exists among the jurisdictions and to evaluate their rank in comparison to others. Although it is of interest for comparisons, it should not be used as a guideline or as a base for justifying increases or decreases in expenditures without accounting for salary differentials, support staffing levels and court procedures and capacity. In its present form, it also should not be used to evaluate the efficiency or effectiveness of one jurisdiction compared to another; nor should it be used as an indicator of the quality of prosecution. High costs no more ensure quality than do low costs.

#### Adjudication Process Costs.

The adjudication processing costs differ because not all cases flow through the same steps. Some are disposed early on, others by jury trial after extensive motions. Convictions or pleas generally, are subject to post-conviction sentencing activity.

If we divide adjudication into four major process steps: Intake, Accusatory, Trial and Post-conviction, we can compare case costs by system flow even though the court structure may differ. For example, the accusatory process in MidA produces either a direct indictment or an indictment as the result of a preliminary hearing with a bindover to the grand jury. The accusatory process in West is simply a preliminary hearing with a bill of information issued.

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Intake starts with costs associated with screening through (and including) first appearance. Accusatory starts after first appearance and ends with the issuance of the accusatory instrument (either after preliminary hearing, or grand jury or both). Trial starts with arraignment and ends with the case disposition. Post-conviction starts after conviction and may include pre-sentence investigations, sentencing, post-conviction motions, and parole and probation revocations.

Table 4.4  
Percent Distribution of Costs  
by Crime Type, Process Step and Jurisdiction

	West	MidA	South	East
<b>Felony</b>				
Violent	\$1,063,200	\$163,100	\$158,300	\$872,900
Intake	8%	19%	9%	*
Accusatory	36	4	14	16
Trial	47	73	62	66
Post-conviction	9	4	15	18
Property	\$705,700	\$132,900	\$268,700	\$942,900
Intake	21%	39%	26%	*
Accusatory	26	9	20	17
Trial	40	47	45	67
Post-conviction	13	5	9	16
Drug	\$477,900	\$27,684	\$55,446	\$236,600
Intake	15%	33%	29%	*
Accusatory	44	12	14	12
Trial	33	43	42	72
Post-conviction	8	12	15	16
Other Felony	\$210,300	\$33,100	\$154,600	\$1,045,800
Intake	13%	13%	4%	*
Accusatory	26	11	2	18
Trial	55	53	92	72
Post-conviction	6	23	2	10

\* In this unified court, intake and accusatory are combined. The costs are displayed under accusatory.

Table 4.4 shows how the percent distribution of the labor costs changes over the adjudication process for each of the offense categories.

The distribution shown here reflects both court procedures and office policy. Some of the patterns show the different emphases given to the prosecution of these crime types. For example, West expends most of its labor costs between the accusatory and trial processes; in contrast to MidA and South which are more trial-intensive. West has a different pattern also for drug cases with comparatively more of its expenditures on the accusatory process than the other jurisdictions. Of interest is the relative stability of the cost distribution in East. Unlike the other jurisdictions, where variations in emphasis occur between the crime categories, East is relatively uniform. This may be due to their unified court system but it cannot be ascertained from this data.

#### **Adjusting Comparative Costs to Examine Effects.**

Criticisms leveled at comparative data focus on the fact that the reasons for differences should be made as clear as possible and that judgements about quality, efficiency or effectiveness should not be made without other tests that substantiate these evaluations. It is clear that until we can define what constitutes quality of services, i.e. prosecution, or efficiency or effectiveness, value judgements should not be made based on comparisons of raw data.

On the other hand, it is possible to examine comparative data to determine what makes the difference. For cost data, we can ask a series of questions such as:

- (1) Are differences due to the attorneys' salaries. We know that cost of living differentials and market differentials exist throughout the country; why could they not be reflected in attorneys' salaries and affect the costs?
- (2) Are differences due to the staffing patterns in the office? We know that some offices have high levels of support staff and others low. Does the funding of non-attorney staff and administrative staff have any effect on case costs?

- (3) Could the differences be due to excess capacity. We know that in the private sector, law firms look for a minimum of 50 percent of an attorney's hours to be billed to clients, but not 100 percent; and a typical capacity figure in industry might be in the order of 80 to 90 percent. We also know that what appears to be excess capacity may reflect the ability of an agency to respond to other demands for its time. This is especially important because some exceptional cases consume enormous amounts of attorney time which has to be made available. For example, organized crime cases, fraud and particularly heinous crimes involving capital punishment. Do differences in the billable rate of public sector attorneys affect case costs?
- (4) What is the effect of the adjudication structure and procedures on these costs? Could they be reduced by increased productivity, or just by working harder? We know that there are profound differences in court systems and that they should impact on costs. We also conjecture that procedures cannot be transferred from one jurisdiction to another without some impact. Can we estimate the effects of transfer?

Adjustments can be made which take these factors into account and show the relative differences in costs. After these adjustments, the residual differences should be due to other, untestable, factors such as court policy, legislative environments and so on.

The purposes of these adjustments are: to isolate the effects of salaries, support levels, capacity and system procedures and productivity on costs; to examine the relative importance of these factors on costs; and to gain insight about the effects of adopting another jurisdiction's procedures. For example, we will see the impact of using West's preliminary hearing procedure on the other three offices. Similarly, we can measure the effect of different styles of jury trials by transferring the procedures used in one site to another.

All of this is possible only because the cost data were generated by a caseweighting system. Without these indicators of work and effort, it would not be possible to identify what factors contribute what impact on costs. The value of caseweights is never more apparent than here as we walk through the series of adjustments to identify how costs are affected.

**Impact of selected factors.**

Before the adjustments are started, a test must be made to determine whether East can be included in this comparison. Since misdemeanors are not specifically costed in East but distributed among the other crime categories, this may distort these costs. By calculating the ratio of the per case costs for each offense category to the violent crime per case cost, we can look at the ratio for misdemeanors in the other jurisdictions. If it is relatively small and stable across the jurisdictions, then we will assume that East is no different and that the misdemeanor effects would not distort the other per case costs.

**Table 4.5**  
**Ratio of Per Case Costs to Violent Crime Costs**  
**Jurisdiction**

Jurisdictions	Offense Categories				
	Violent	Property	Drug	Other	Misdemeanor
Per Case Cost					
West	\$1,882	\$1,312	\$1,124	\$592	\$104
MidA	691	232	204	133	39
South	212	96	115	208	12
East	256	139	154	129	na
Ratio to Violent					
West	1.0	.70	.60	.31	.05
MidA	1.0	.34	.30	.19	.06
South	1.0	.45	.54	.98	.06
East	1.0	.54	.60	.50	na

Table 4.5 shows the per case costs and their ratios to violent crime costs. The low proportion of misdemeanor costs to violent crimes (.05 to .06) and their stability justifies the inclusion of East in the subsequent analysis. Since there is nothing

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to indicate that misdemeanors have a major impact on the distribution of case costs, the per case costs for East will be included in the adjustments.

#### Attorney salaries.

The costs of attorneys assigned to adult criminal prosecutions may differ among the jurisdictions and affect the per case costs. This adjustment will take care of this effect. The procedure is as follows:

- (1) Calculate the average annual labor cost for FTE attorneys
- (2) Use West as a base and calculate the ratio of West's labor costs to each site; (Note: any office could serve as a base without changing the relative position of each office.)
- (3) Multiply each jurisdiction's per case costs (Table 4.5) by the adjusting ratio to obtain salary adjusted per case costs. This effectively makes the other sites pay the same price for attorneys as West pays.

The worksheet to do this follows.

- (1) Average annual labor cost for FTE attorneys:

Jurisdiction	Total Attorney Labor Costs for Criminal	FTE Attyns.	Annual Cost per attny.
West	\$2,572,900	40.3	\$63,900
MidA	305,500	8.1	37,700
South	688,000	20.3	33,900
East	2,066,500	58.4	35,400

This average annual labor cost does not include administration or other non-criminal costs for attorneys.

- (2) Use West as a base and calculate ratio of per attorney costs of West to each site.

Jurisdiction	Annual Attorney Cost	Ratio
West	\$63,800	1.00
MidA	37,700	1.69
South	33,900	1.88
East	35,400	1.80

These ratios show the level of correction needed to wash out differences due to attorneys' salaries. For example, South's annual costs would have to be increased 88 percent to equal West's costs.

- (3) Multiply per case costs in Table 4.5 by ratios to obtain attorney salary adjusted costs.

Table 4.5  
Per Case Costs Adjusted for Attorneys' Salaries  
by Jurisdiction and Offense Categories

Jurisdiction	Violent	Property	Drug	Other	Misd.
West	\$1,882	\$1,312	\$1,124	\$592	\$104
MidA	1,168	392	345	225	66
South	399	180	216	391	23
East	461	250	277	232	na

*Conclusion.* There are dramatic changes when salaries are taken into consideration. Violent crime case costs in MidA move from \$691 to \$1,168 and in South the increase is from \$212 to \$399. As the ratios indicate, salary differentials make a big difference in suppressing the costs in South and East. If these jurisdictions were paid at the same level as West, the costs of prosecution would almost double. However, this adjustment did not eliminate all the differences. Now we will look at staffing.

**Support and administrative costs.**

Differences may be caused by the funding levels provided for support staff and for administration. Not all jurisdictions have the same staffing patterns or are provided with the same

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levels of support. To test for these effects, we will:

- (1) Calculate the percent of criminal attorney costs to total criminal labor costs;
- (2) Use West as the base, and add West's percent of non-attorney costs to the percent of attorney costs at each of the sites. This gives each site the equivalent amount of support and administrative staff as West.
- (3) Multiply the adjusted costs in Table 4.6 by the rates calculated in (2) to obtain costs adjusted for salary differences and equivalent levels of non-attorney support.

The worksheet follows:

Jurisdiction	Cost Criminal Attny Labor	Total Crim. Labor	Percent Attny.	Percent Attny + West Non-attny
West	\$2,572,900	\$4,140,200	.621	1.00
MidA	305,500	463,600	.659	1.04
South	688,000	826,300	.833	1.21
East	2,066,600	3,657,100	.565	0.94

Here we see the differences in support levels among these sites. Proportionately, South has the lowest expenditures for support staff; most of its labor costs going to attorneys. Its staffing costs would have to be increased by 21 percent to reach West's level. East has the highest proportion of expenditures on staff; more so than West.

Table 4.7

## Per Case Costs Adjusted for Attorneys' Salaries, and Support and Administrative Staff by Jurisdiction

Jurisdiction	Violent	Property	Drug	Other	Misd.
West	\$1,882	\$1,312	\$1,124	\$592	\$104
MidA	1,215	408	359	234	69
South	483	218	261	473	28
East	433	235	260	218	na

*Conclusion.* The effect of differences in support levels is not appreciable. MidA's costs barely change and East's actually are reduced because its expenditures on administration and support were proportionately higher than West's. These slight corrections are reasonable because most of the labor costs are expended on attorneys, with a high of 83 percent.

The remaining differences can now be adjusted for capacity.

### Capacity.

Capacity is the amount of resources available in an office for prosecution. Some of this capacity is used by the prosecution of specific cases (the case-billable time); some is used by other activities not directly assignable to cases. Every agency has to have some of each but the proportions may vary.

Since we know the hours allocated to specific case prosecutions from the case weights and the amount of time spent on administration and general prosecution activities, we can adjust the costs to account for differences in non-billable rates.

If the non-billable time is increased or decreased, then the capacity of the office to prosecute is affected and the per case costs will change accordingly. The more non-billable time an office has, the higher its case costs. Like overhead, the higher rate increases costs. Since each of the jurisdictions operate with different billable rates, we should account for differences in capacity among the sites and determine their relative effects. (It may be that capacity in non-billable hours may increase the

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quality of case processing but this cannot be determined from this data.)

The procedure for doing this is:

- (1) Calculate the total number of work hours available for FTE attorneys, based on the number of days worked annually. (This varies because of fringe benefits and leave policies);
- (2) Calculate the percent of hours billed by FTC attorneys to total work hours available; subtract it from 1.0 to obtain percent not billed;
- (3) Compute the ratio of West's percent to each of the sites and adjust the costs presented in Table 4.7 by these ratios. This computation gives each site the same amount of relative excess capacity as found in West.

The worksheet follows:

Jurisdiction	No. Work Days avbl.	No. FTE	Total Hours	Hours Billed	1 - % Billed	Ratio West to each.
West	224.25	40.3	72,298.2	24,408.0	0.662	1.00
MidA	228.00	8.1	14,774.2	9,689.4	0.344	1.92
South	233.00	20.3	37,839.2	16,7600.5	.554	1.19
East	228.00	58.4	106,521.6	70,613.3	0.337	1.96

It is clear from this worksheet that the differences in capacity vary widely among the jurisdictions. West and South have the highest rates. The small amount of non-billable capacity in MidA and East keeps case costs low. As the ratios show, increasing capacity to West's level almost doubles the costs. Applying the ratios to Table 4.7, yields the following adjustments.

Table 4.8  
Per Case Costs Adjusted for Attorney Salaries  
Support and Administration Costs and Capacity

Jurisdiction	Violent	Property	Drug	Other	Misd.
West	\$1,882	\$1,312	\$1,124	\$592	\$104
MidA	2,333	783	689	449	132
South	575	259	311	563	33
East	849	461	510	427	na

*Conclusion.* There is a mix between billable time and non-billable time which will keep costs down but allow for exceptional case processing and general prosecution related activities. What it should be is not clear. But as this adjustment indicates, the effects are dramatic. Like overhead, non-billable time is necessary but costly.

We have now made all the adjustments possible to the unit costs. The costs presented above are adjusted for salary differences, differences in support and administration levels and for capacity. The remaining differences are due to court procedure, productivity and other systemic factors.

#### Court procedures and productivity.

The average number of hours billed per case reflects both court procedures and productivity. It is not possible to separate the two here, but we will assume that most of the effect is due to differences in court procedures. For example, preliminary hearings take 6.3 hours, on the average, in West but only 0.5 hour in East. The longer hours in West will consume more of the billable hours than in East unless West works hard enough to offset these differences -- becomes more productive -- and reduces some part of these hours. But since these hours are composed of in-court time and out-of-court work, it is only in this latter activity that significant reductions could be made which would be linked to prosecutor productivity. Therefore, we will adjust for the confounded effect of both factors with the following procedures:

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- (1) Calculate the average hours billed per case for each crime type. For the first time, we can take into account the differences in effort associated with the various types of offenses. This will produce an even more refined adjustment.
- (2) Compute the ratio of West's hours to each of the other jurisdictions;
- (3) Multiply the costs in Table 4.8 by these ratios. This will effectively make all jurisdictions operate with West's court procedures and level of productivity.

Worksheet follows:

**Average Hours and Ratios  
by Crime Category**

Jurisdiction	Violent		Property		Drug		Other		Misc.	
	Hrs	Ratio	Hrs	Ratio	Hrs	Ratio	Hrs	Ratio	Hrs	Ratio
West	11.1	1.00	7.7	1.00	6.6	1.00	3.5	1.00	0.6	1.00
MidA	15.2	0.73	5.1	1.51	4.5	1.47	2.9	1.20	0.9	0.67
South	4.3	2.58	2.0	3.85	2.3	2.87	4.2	0.83	0.2	3.00
East	4.9	2.27	2.7	2.85	3.0	2.20	2.5	1.40	na	na

Multiplying each of the per case costs in Table 4.8 by the appropriate ratios makes all the sites equivalent to West as shown in Table 4.9.

Table 4.9  
Per Case Costs Adjusted for Salaries, Support,  
Capacity, Procedures and Productivity

Jurisdiction	Violent	Property	Drug	Other	Misd.
West	\$1,882	\$1,312	\$1,124	\$592	\$104
MidA	1,703	1,182	1,013	539	91
South	1,484	997	893	467	99
East	1,927	1,314	1,122	598	na

*Conclusion.* The jurisdictions have now been made to operate as West does after adjustments for salary, staffing and support, capacity and court procedures and/or productivity. Even after these adjustments, South shows per case costs that are 21 to 25 percent lower than West's. Similarly, MidA's case costs are 10 percent lower than West's. The reason for this can not be explained by any of the factors which have been used in the adjustments. Other areas would have to be examined to determine what causes these differentials.

On the other hand, we see that East becomes comparable to West in per case costs because of these adjustments. In fact, almost all the difference in costs is explained by these factors.

#### Factors Affecting Costs and Implications.

As we found, 75 to 100 percent of the differences in case costs can be attributed to differences in salaries, staffing and support levels, system capacity and court procedures and productivity. But these factors do not affect costs uniformly. We can look at their impact by examining the ratios which were applied to the case costs, since they show where the most important changes occurred. These are displayed in Table 4.10 below.

Table 4.10  
Effect of Adjustments on Per Case Costs Based on Ratios

Jurisdiction	Ratios used for Adjustments							
	Salary	Support	Capacity	Vio.	Prop.	Drug.	Other	Misd.
West	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
MidA	1.89	1.06	1.94	0.73	1.51	1.47	1.20	0.67
South	1.88	1.34	1.31	2.58	3.85	2.87	0.83	3.00
East	1.80	0.91	1.96	2.27	2.85	2.20	1.40	na

The above shows in some complicated detail, how costs are affected. If we translate these ratios into the average adjustments to the case costs made for each jurisdiction in order to obtain comparability with West, we can see the following pattern emerge:

Average Percent Adjustments Made For:

	Salary	Support	Capacity	Procedure/Productivity
MidA	34%	3%	46%	17%
South	30	12	10	47
East	28	3	32	38

This distribution shows that the major differentiators in costs are shared between salaries, capacity and procedures. The level of support staff has some effect on costs but not significantly. The interesting comparison is in the capacity and procedures area. Capacity reflects the amount of time billed to specific cases. If the case-billable rate is low, case costs will be high because it acts like overhead. MidA and East operated with different billing rates than West which is reflected in the adjustments. South's major difference with West is clearly with the court procedure/productivity factor. In all the jurisdictions, the impact of salary differentials is clear.

We can look at the effect of court procedures by transferring the procedures in one office to another. Since case weights reflect these procedures, the transfer can be made by

substituting one jurisdiction's case weights for another's and examining the differences in workload.

In the following example, we show the effect of transferring West's preliminary hearings and jury trials to the other jurisdictions. (Table 4.11)

**Table 4.11**  
**Effect of Transferring West's Procedures to Other Sites**

Factors	MidA	South	East
No. Prelim. Hrgs.	558.0	2,190.0	22,051.0
No. Attny. Hours	1.9	0.6	0.5
Workload (hours)	1,060.2	1,295.0	11,308.6
Transfer West Hours	6.3	6.3	6.3
New Workload	35,154	13,797	138,921.3
Difference	24,552	11,607	127,612.7
No. Jury Trials	81	814.0	516.0
No. Attny Hours	23	3.3	6.1
Workload (hours)	1,863	2,717	3,167.6
Transfer West Hours	18	18	18
New Workload	1,458	14,052	9,288
Difference	(405)	11,935	6,210.4
Net Transfer Change	2,050.20	35,477.0	133,733.1
FTE Attorneys Needed	0.98	17.0	64.0

The implications of the effect of structural and procedural changes are perfectly clear if we look at the last line, the number of full-time equivalent attorneys that would be required.

### Conclusion.

The results of the analysis of prosecution costs indicate that there is a wide range of costs among the jurisdictions and that they vary significantly according to the type of crime being prosecuted, the procedures and productivity inherent in the adjudication process, the unbilled capacity of the system and to salary differentials. This lends strong support to maintaining these distinctions in other cost studies and at the same time argues against basing costs on simple averages such as the

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average cost per case or the average hourly labor cost. The adjustments that can be made to these costs to make comparisons more relevant are not difficult and yield interesting, and perhaps valuable, insight into the dynamics of prosecution systems.

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## Appendix

### Reliability of Self-Reported Time.

The reliability of self-reported time estimates is continually subject to doubts about truthfulness, accuracy and completeness, and with good reason. In many instances, estimates are taken on faith without the benefit of audits or other controls, and used with these assumptions.

Because this cost study required both public defenders and prosecutors to log their time using the same format, it is possible to compare their self-reported times and obtain some indication of the reliability of their reports.

The logs were completed by both public defender and prosecutor agencies in West and South during the same time periods. Although many of the same cases in the same jurisdiction may have been processed by each agency through the courts during this time period, this is not true of all cases. First, the public defender processes only a portion of the total case set. Second, some of the cases processed may not necessarily be active in the other agency at the same time. For example, work may be performed by the public defender during the pre-trial phase on a given case while the same file may be sitting inactive in the prosecutor's record room awaiting a court hearing. As a result, there is no one-to-one match between cases in the two agencies.

Finally, we would expect the work to differ between the two agencies so that, although the order of magnitude would be similar, there would be different emphases and shifts in the levels of effort between the two.

A test for reliability under these conditions should focus on the order of magnitude in the levels of effort expended by the two agencies. From Table A-1, we see that there is good evidence to support the acceptance of these workload estimates because of the similarity between the two sets of effort in West.

Comparing these three offense categories is sufficient to indicate the similarities between self-reported times. It should be noted that part of this similarity is forced by "in-court" time, since both agencies spend the same amount of time in-court at a particular hearing. Where differences might occur is in "out-of-court" time, which represents the effort the agencies expend on such case-related activities as conferences, interviews, fact-finding, research, negotiations, traveling, wait time and so forth. Therefore, if there is a bias in the above estimates it would most likely occur in underreporting these out-of-court activities. It is not possible to determine whether this has occurred in this jurisdiction, but it appears unlikely in view of the fact that both agencies have independently logged similar levels of effort.

Table A-2 shows a comparison of two crime categories in South. Again a similar response pattern is discernible among all the offense categories except drug cases. For brevity, we show the responses for violent crimes and the drug cases only. The differences in effort in drug cases might reflect different work emphases in the two agencies. Since this is the only category with obvious differences, it is interesting to note.

Table A-1  
Comparison of Levels of Reported Effort in West by Agency

Process Step	District Attorney		Public Defender	
	No. of Cases	Effort (hours)	No. of Cases	Effort (hours)
<b>Violent</b>				
Complaint review Municipal Court	543	0.1	353	0.1
Arraignment	237	1.9	154	2.0
Preliminary Hearing	226	9.8	147	5.5
Information review Superior Court	192	0.1	125	0.1
Arraignment	187	1.8	122	1.7
Readiness/Pre-trial	208	5.7	135	12.4
Court trial	14	10.9	9	9.0
Jury Trial	61	21.0	40	26.0
Probation/sentencing	205	2.8	133	2.1
<b>Property</b>				
Complaint review Municipal Court	538	0.1	393	0.1
Arraignment	254	3.2	185	2.7
Preliminary Hearing	222	4.8	162	2.8
Information review Superior Court	173	0.1	126	0.1
Arraignment	190	2.9	139	1.6
Readiness/Pre-trial	221	4.0	161	3.6
Court trial	11	6.7	8	1.2
Jury Trial	17	10.0	12	7.6
Probation/Sentencing	213	2.5	155	1.4
<b>Drugs</b>				
Complaint review Municipal Court	395	0.1	182	0.1
Arraignment	258	1.5	119	2.1
Preliminary hearing	253	4.8	116	3.0
Information review Superior Court	140	0.1	64	0.1
Arraignment	134	0.8	62	0.5
Readiness/pre-trial	164	3.6	75	2.8
Court trial	10	3.2	5	1.2
Jury trial	13	15.7	6	16.7
Probation/sentencing	143	1.6	66	1.2

Table A-2  
Comparison of Levels of Reported Effort in South by Agency

Process Step	District Attorney		Public Defender	
	No. of Cases	Effort (hours)	No. of Cases	Effort (hours)
<b>Violent</b>				
Pre-warrant paper	698	0.1	0	0
Dist. Ct. bond/counsel	598	0.3	242	0.8
Post-warrant paper	598	0.1	242	0.1
Probable Cause	400	1.0	162	1.3
Grand Jury	311	0.2	126	0.6
Arraignment	221	1.3	85	1.4
Calendar call	310	2.1	121	1.9
Motions	12	1.3	5	1.4
Plea	111	1.3	43	1.4
Jury Trial	199	4.7	78	3.8
Sentencing	177	2.7	70	0.8
<b>Drugs</b>				
Pre-warrant paper	472	0.1	0	0
Dist. Ct. bond/counsel	472	0.5	211	0.6
Post-warrant paper	472	0.1	211	0.1
Probable Cause	206	0.5	92	0.9
Grand jury	310	0.2	139	0.5
Arraignment	195	0.9	75	5.0
Calendar Call	188	0.5	81	1.8
Motions	8	0.9	4	5.0
Plea	137	0.9	59	5.0
Jury Trial	51	1.7	22	2.3
Sentencing	240	0.7	106	0.7

### Conclusion.

There is always a question about the reliability of self-reported data, especially when it is generated under less than voluntary circumstances. Questions about honesty, accuracy and completeness are continually raised. The results of this comparison suggest that while requests to attorneys to log their time may not be received with pleasure, they may, nonetheless, be responded to professionally. A comparison of their estimates shows similar orders of magnitude, giving us added confidence in the reliability of the self-reported time estimates.

## METHODOLOGICAL EVALUATION.

In the previous chapters we have utilized data generated from an intensive collection effort. We have already indicated that it is unlikely that these efforts are likely to be carried out by the typical prosecutor or public defender in the absence of a study designed and controlled by professional researchers. Second, there are questions of cost effectiveness and practicality that must be addressed if the methodology used here is to be utilized as a continuing approach for evaluating system costs.

In this chapter these issues will be addressed. In the first section the methodology used in this study will be reviewed briefly. That discussion will be followed by a consideration of more traditional and more "macro" approaches to the measurement of cost. Finally, a discussion of the costs and benefits of the alternative methods will be presented. We use the terminology "micro" versus "macro" as a way of describing estimates which emanate from detailed data (micro) as opposed to aggregate data (macro). It should be noted that ultimately the macro approach becomes a micro approach as we increase the level of cost disaggregation and the micro approach converges on the macro as detailed data is aggregated.

**Micro Methodology.**

All of the calculations presented in earlier chapters rely on two principal sources of information. The aggregate cost data is generally found in the budgets of most governmental units. This data is supplemented with information on staffing patterns that can usually be derived from organizational charts and/or annual reports.

The second major source is data derived from the time and activity logs which were designed and implemented specifically for this research. In the public sector, logs or time sheets have tended to be an anathema for most professionals and attorneys are no exception. In some jurisdictions in which attorneys are unionized, filling out time sheets may be a serious problem. Even in the absence of a union, the attorneys must have a

reasonably positive attitude toward the process, otherwise the quality of the data might be affected. This is in direct contrast to the private sector where time-keeping (or more accurately client billing) is seen as a necessary and even desirable function carried out by all attorneys.

The logs provide information at two distinctly different levels. First, they provide an estimate of the daily distribution of attorney time by major function for a given day. The attorney is asked how many hours were spent on crime-specific matters, criminal matters not assignable to adult felony cases, administrative duties, and on non-criminal matters apart from the preceding three categories. Since the question is asked daily for four to eight weeks, a reasonably good sample of estimates is obtained for each attorney. Further, the cost analysis is done at the office level which suggests that those estimates are likely to be biased only if biases tend to act in the same direction for the majority of attorneys. Thus, we would anticipate that the estimates for the distribution of time across the four categories would be relatively unbiased.

The more valuable part of the logs and perhaps the most difficult to collect and analyze is the case-billable information that each attorney reports for each day. Data is collected describing the amount of work done, the type of work, and the point in the adjudication process. This data is used to disaggregate the total cost by crime type and process step. In the absence of case-billable information, we can derive only the average costs for a generic case that traveled an average route through the adjudication process. In fact, if we were only interested in collecting information on the average case, only the daily distribution of time worked on criminal matters and administration would be required. At issue is the quality of the cost estimates. Will the collection of case-billable time in the second part of the log influence the time distribution estimated for the major functions in the first part of the log? It would be reasonable to think that it would provide a basis for estimating the category of case-specific criminal work.

The time distribution is used initially to allocate attorney costs by function. Support costs are derived from the sample estimates of time for non-attorneys. This data is also derived from time sheets but it is more likely to be available in most jurisdictions. Still, these measures of the distribution of time are subject to sampling and measurement error. The approach used here is to calculate a loading rate which allows the inflation of attorney time to cover the overhead cost of support staff.

The combination of the two yield the total labor cost allocated to each area. The distribution of time is a statistical parameter estimated from a sample and thus has sampling error and some unknown degree of measurement error. Thus, any estimates of costs calculated also have a variance. The time parameters for support staff estimated from time sheets which are routinely collected probably have less error but are clearly subject to both sampling error and measurement error.

Clearly, the distribution of time data could be collected independently of case-billable data. The record-keeping requirements of that component is clearly less onerous than the full-scale logging effort. The real question is whether the cost of obtaining the case-billable data is less than the benefit gained by having more accurate estimates and more disaggregated costs.

The case-billable component of the daily log also provides sample estimates of statistical parameters which are used throughout the computation of cost. There are two distributions which are obtained from the logs that play a crucial role in the computation. The first is an estimate of the amount of time spent on a particular kind of case. This distribution is usually broken into the gross categories of felony, misdemeanor, and other but can also be classified by offense charge type. It should be noted that while the latter entails a substantial coding effort it allows disaggregation which shows substantial differentials in cost within the felony category.

The second major distribution derived from the logs is the amount of time spent on each process step (e.g., screening, trials, etc.). These parameters allow the disaggregation of costs to the various stages of the system. It is also possible to estimate the distribution by process step within crime class (felony and misdemeanor). The problem in doing this ultimately is one of sample size. In order to get 100 to 150 data points in some of the less utilized process steps (e.g., jury trial), the length of the logging process may be expanded beyond that which is feasible and the amount of data collected for all other categories will be greater than what is needed for the other steps. This increases the overall cost of the experiment.

It is nearly impossible to solve the problem using more sophisticated sampling procedures because of the difficulties in implementation. There is considerable risk in asking the attorneys to record only a specified portion of their activity on the logs. If an office is organized by adjudication process step (e.g., screening, trial..), it may be possible to obtain estimates from these units over different periods of time. This assumes that the distribution of cases is nearly constant throughout the universe of all possible sampling periods in the year.

In addition to the two primary distributions (crime type and process step) derived from the logs, the result of each entry was also collected. This information is useful for two purposes. First, it can be used to validate the quality of the logs. Data on continuance rates can be calculated and compared with court data which is likely to be available or the results can be cross-checked with docket results for a sample of days. The second purpose is the calculation of continuance rates by process step and their associated process steps. This data may allow management to take action which may alleviate a particular problem area and reduce the losses which are occurring. This was done in another study conducted by the Jefferson Institute.

In summary, the case-billable data allows the calculation of average costs for a wide array of criminal justice activity. Much of that data is never available in most prosecutor or

public defender offices on a regular basis. The costs and difficulties in implementation must be fully understood as should be the statistical properties of the estimates derived. Neither should the benefits be underestimated.

### Macro Methodology.

We have noted that the logging procedures that are required for the micro approach to cost estimation can be costly and time-consuming. For those reasons many offices will resist the use of that approach if estimates which are reasonably close can be obtained by other less costly and less controversial methods. In this section we will examine the characteristics of estimates which might be obtained from alternative methods.

The first level objective of this cost analysis requires the disaggregation of the prosecutor and public defenders budget into the three basic categories of cost namely, criminal work, non-criminal, and office administration. The reason for breaking costs into these categories you will recall is to allow the loading of the administrative costs onto criminal costs as overhead. This lets us determine the average cost of criminal and non-criminal cases.

The general procedure which would be followed is to allocate people and other costs into the broad groups of criminal, non-criminal, and administrative. This might be done by assigning all of the costs of a particular individual to the area in which their principal function lies which should be relatively easy although perhaps biased. The second approach is to estimate a distribution for each individual or groups of individuals using subjective estimates or estimates derived from a survey. Once derived, the administrative costs can be distributed across the criminal and non-criminal components of the office's work. (It should be noted that the distribution of costs for support staff and for office-wide administration were handled in this way for the micro approach.)

The result of the distribution of the budget is an estimate of the total costs allocated to criminal and non-criminal work. This data in and of itself is not very interesting. The first and

most macro measure of cost would be the average cost per criminal case. This would be obtained by dividing the total criminal cost by the total number of criminal cases. If this measure is to be useful we must assume that the cost of criminal cases are normally distributed. Unfortunately, the costs of felonies and misdemeanors appear to diverge substantially. This suggests the need for two distributions; one for felonies and one for misdemeanors. In fact Table 4.5 suggests a difference of nearly 20 fold between the two classes of crime.

How then can we derive a reasonable estimate of the distribution? One method would be to further allocate the time distribution into categories of felony, misdemeanor, and non-criminal. This may be relatively easy if misdemeanors are handled by a special unit. If the function is spread throughout the office, then the survey approach will be required. Each level of disaggregation increases the level of error. In order to get a reasonable estimate that distribution surveys will have to be repeated over a period of time. This would correspond to the implementation of the upper portion of the log with a further disaggregation according to felony and misdemeanor. One of the problems with that entire procedure is that the distributions are not statistically independent. If the respondent is asked to divide 100 percent into two parts, specifying one automatically determines the other. An alternative would be to survey for less than the full distribution several times so that independent estimates could be obtained. In any event, the quality of the data will depend in large part on the sample size achieved for each category of time. Assuming a reasonable distribution of time can be obtained, then the criminal cost can be split into the cost of felony processing and misdemeanor processing. The average cost can then be derived.

There may be other alternative methods available which would decrease the necessity of the survey. For example, the ratio of felony costs to misdemeanor costs in the four sites was almost a constant; 20 to 1. If the administrator can accept that distribution, then he has "an indicator" which should be highly correlated with the data which would be derived from a survey.

(It should be remembered that the indicator comes from the micro study.) This argues for a combined approach employing the micro approach every several years. The "indicators" derived from the micro study could be used in later years to disaggregate the budget.

It should be evident at this point that the macro approach becomes more difficult, the more disaggregated the costs become. In fact, it would be virtually impossible to estimate distributions by process step or detailed charge category.

### Summary.

The real question remains; how far must we disaggregate in order to derive cost measures which will be useful for budgeting. If the office is expecting a 10 percent increase in criminal cases and a 5 percent increase in civil cases in the next year, the required increase in the budget can be easily calculated if the budget can be disaggregated into those two primary categories. In fact if there is no difference in the cost of criminal cases and non-criminal cases then even that level of disaggregation may not be necessary. If there is a difference and the rate of increase in workload is different between the two, then the first level of disaggregation is required.

There is little argument that felony case processing costs are different from misdemeanor costs. Thus, our budgeting problem will require disaggregation unless felonies and misdemeanors are found in a constant ratio. That is, if the current ratio is 8 misdemeanors to 1 felony case and the predicted 10 percent increase is distributed the same way then the average for all criminal cases will hold. If the ratio is changing or the relative costs changes, disaggregation will be required to compute the impact of the increased case-load on the budget.

As the number of cells in the functional distribution increases, the accuracy of the cost measures increase to the extent we can accurately estimate the parameters. That is, we have decreased the within cell variance by increasing the number of cells thus transferring that variance to between cells

variance. For example, costing by crime type will reduce the within cell variance for the major cell, felony criminal costs. The question is whether the cost in gathering the data is worth the reduction in error. Referring once again to Table 4.5 it is clear there are differences in processing costs by crime type within the general class called felony. It is also true that the variation is site dependent. The ratio varies from 2/1 to 6/1 depending on the site. While perhaps significant, these ratios are far below those found in the felony/misdemeanor stratification.

The real issue in case costing then is to tie the level of knowledge desired to what is known about the general cost dynamics of the particular system. If you know nothing about the general cost structure a full micro study may be in order. One must first know the differential between criminal and non-criminal work. Within criminal work, there will probably be a difference between felony and misdemeanor cases. Within felony cases, there may be differences by crime type. If the differences are not significant or at least management is willing to ignore them, then the macro approach subject to the problems noted above may be used. If they are significant and/or the process step information is desirable and valuable, then the proper approach is to use the micro strategy.

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## NATIONAL CRIME INFORMATION CENTER UNIFORM OFFENSE CLASSIFICATIONS

The following codes have been assigned for use in the Offense (OFF) Field of NCIC Wanted Person File records. When the offense is followed by the parenthetical wording "Identify type of institution" or "specify conduct," free text to describe the institution or specify the actions which constitute disorderly conduct should be entered in the Miscellaneous (MIS) Field. When the offense is followed by parenthetical wording such as "Identify weapon," or "Identify object," enter free text to describe same in the MIS Field. When any other offense code is used, free text or easily understood abbreviations further explaining or describing the offense may be entered in the MIS Field.

When the substantive offense is conditioned by one of the following offenses of general applicability, the appropriate wording below (or easily understood abbreviations) must be placed in the MIS Field so the inquiring recipient of the record will know that the substantive offense has not been charged.  
GENERAL OFFENSE--Accessory after the Fact, Accessory before the Fact, Aid/Abet, Assault to Commit, Attempt to Commit, Conspiracy to Commit, Facilitation of, Solicitation to Commit, Threat to Commit.

In all positive responses containing a Wanted Person File record, the OFF code will translate as set out below with the exception of the parenthetical instructions. For example, in a wanted person record response where the offense is coded 0902, the translation will read "OFF/HOMICIDE-WILLFUL KILL-FAMILY-WEAPON".

### SOVEREIGNTY

Treason	0101
Treason Misprision	0102
Espionage	0103
Sabotage	0104
Sedition	0105
Selective Service	0106
Sovereignty See MIS	0199*

### MILITARY\*\*

Military Desertion	0201
Military Sea MIS	0299*

### IMMIGRATION

Illegal Entry	0301
False Citizenship	0302
Smuggling Aliens	0303
Immigration See MIS	0399*

### HOMICIDE

Homicide-Willful Kill-Family-Gun	0901
Homicide-Willful Kill-Family-Weapon (Identify weapon)	0902
Homicide-Willful Kill-Nonfamily-Gun	0903
Homicide-Willful Kill-Nonfamily- Weapon (Identify weapon)	0904
Homicide-Willful Kill-Pub Off-Gun	0905
Homicide-Willful Kill-Pub Off- Weapon (Identify weapon)	0906
Homicide-Willful Kill-Pol Off-Gun	0907
Homicide-Willful Kill-Pol Off- Weapon (Identify weapon)	0908
Homicide-Neglig Mansl-Veh	0909
Homicide-Neglig Mansl-Weapon (Identify weapon)	0910
Homicide-Willful Kill-Gun	0911
Homicide-Willful Kill-Weapon (Identify weapon)	0912
Homicide	0999

### KIDNAPPING

Kidnap Minor For Ransom	1001
Kidnap Adult For Ransom	1002
Kidnap Minor To Sexually Asslt	1003
Kidnap Adult To Sexually Asslt	1004
Kidnap Minor	1005
Kidnap Adult	1006
Kidnap Hostage For Escape	1007
Abduct-No Ransom Or Asslt	1008
Kidnap-Mi/jack Aircraft	1009
Kidnapping	1099

### SEXUAL ASSAULT

Rape-Gun	1101
Rape With Weapon (Identify weapon)	1102
Rape-Strangem	1103
Sex Asslt-Sodomy-Boy-Gun	1104
Sex Asslt-Sodomy-Man-Gun	1105
Sex Asslt-Sodomy-Girl-Gun	1106
Sex Asslt-Sodomy-Woman-Gun	1107
Sex Asslt-Sodomy-Boy-Weapon (Identify weapon)	1108

### SEXUAL ASSAULT (continued)

Sex Asslt-Sodomy-Man-Weapon (Identify weapon)	1109
Sex Asslt-Sodomy-Girl-Weapon (Identify weapon)	1110
Sex Asslt-Sodomy-Woman-Weapon (Identify weapon)	1111
Sex Asslt-Sodomy-Boy-Stgarm	1112
Sex Asslt-Sodomy-Man-Stgarm	1113
Sex Asslt-Sodomy-Girl-Stgarm	1114
Sex Asslt-Sodomy-Woman-Stgarm	1115
Stat Rape-No Force	1116
Sex Asslt-Carnal Abuse	1117
Sex Assault	1199

### ROBBERY

Robbery-Business-Gun	1201
Robbery-Business-Weapon (Identify weapon)	1202
Robbery-Business-Stgarm	1203
Robbery-Street-Gun	1204
Robbery-Street-Weapon (Identify weapon)	1205
Robbery-Street-Stgarm	1206
Robbery-Raid-Gun	1207
Robbery-Raid-Weapon (Identify weapon)	1208
Robbery-Raid-Stgarm	1209
Robbery-Furtz Snatching	1210
Robbery-Banking-Type Inst	1211
Robbery	1299

### ASSAULT

Aggrav Asslt-Family-Gun	1301
Aggrav Asslt-Family-Weapon (Identify weapon)	1302
Aggrav Asslt-Family-Stgarm	1303
Aggrav Asslt-Nonfamily-Gun	1304
Aggrav Asslt-Nonfamily-Weapon (Identify weapon)	1305
Aggrav Asslt-Nonfamily-Stgarm	1306
Aggrav Asslt-Pub Off-Gun	1307
Aggrav Asslt-Pub Off-Weapon (Identify weapon)	1308
Aggrav Asslt-Pub Off-Stgarm	1309
Aggrav Asslt-Pol Off-Gun	1310
Aggrav Asslt-Pol Off-Weapon (Identify weapon)	1311
Aggrav Asslt-Pol Off-Stgarm	1312
Simple Asslt	1313
Aggrav Asslt-Gun	1314
Aggrav Asslt-Weapon (Identify weapon)	1315
Intimidation	1316
Assault	1399

### ABORTION

Abortional Act On Other	1401
Abortional Act On Self	1402
Submission To Abortional Act	1403
Abortifacient	1404
Abortion	1499

### ARSON

Arson-Business-Endangered Life	2001
Arson-Raid-Endangered Life	2002
Arson-Business-Defraud Insurer	2003
Arson-Raid-Defraud Insurer	2004
Arson-Business	2005
Arson-Raid	2006
Burning Of-Sen MIS	2007
Arson-Pub-Bldg-Endangered Life	2008
Arson-Pub-Bldg	2009
Arson	2099

\*When offense codes 0199, 0299, and 0399 are used, free text or easily understood abbreviations explaining or describing the offense must be placed in the Miscellaneous (MIS) Field.  
\*\*Military codes can be used only by the FBI and military agencies.

<b>EXTORTION</b>			
Extort-Threat Injure Person	2101	Embassie-Interstate Shipment	2702
Extort-Threat Damage Prop	2102	Embassie-Banking-Type Inst	2703
Extort-Threat Injure Reputation	2103	Embassie-Public Prop	2704
Extort-Threat Accuse Person of Crime	2104	Embassie-Postal	2705
Extort-Threat Of Informing Of Vis	2105	Embassie	2799
Extortion	2199		
<b>BURGLARY</b>		<b>STOLEN PROPERTY</b>	
Burgl-Safe-Vault	2201	Sale of Stolen Prop	2801
Burgl-Forced Entry-Resid	2202	Transport Interstate Stolen Prop	2802
Burgl-Forced Entry-Nonresid	2203	Receive Stolen Prop	2803
Burgl-No Forced Entry-Resid	2204	Possess Stolen Prop	2804
Burgl-No Forced Entry-Nonresid	2205	Conceal Stolen Prop	2805
Burgl Tools-Possess	2206	Stolen Property	2899
Burgl-Banking-Type Inst	2207		
Burglary	2299		
<b>LARCENY</b>		<b>DAMAGE PROPERTY</b>	
Pocketpicking	2301	Damage Prop-Business	2901
Purse Snatching-No Force	2302	Damage Prop-Private	2902
Shoplifting	2303	Damage Prop-Public	2903
Larc-Parts From Veh	2304	Damage Prop-Business-With Explosive	2904
Larc-From Auto	2305	Damage Prop-Private-With Explosive	2905
Larc-From Shipment	2306	Damage Prop-Public-With Explosive	2906
Larc-From Coin Machine	2307	DAMAGE PROPERTY	2999
Larc-From Bldg	2308		
Larc-From Yard	2309		
Larc-From Mail	2310		
Larc-From Banking-Type Inst	2311		
Larc-From Interstate Shipment	2312		
Obstruct Correspondence	2313		
Theft of US Govt Prop	2314		
Larc On US Govt Assrv	2315		
Larc-Postal	2316		
Larceny	2399		
<b>STOLEN VEHICLE (theft, sale, receipt, etc.)</b>		<b>DANGEROUS DRUGS</b>	
Theft And Sale Veh	2401	Hallucinogen-Mfr	3501*
Theft And Strip Veh	2402	Hallucinogen-Distrib	3502*
Theft And Use Veh Other Crime	2403	Hallucinogen-Sell	3503*
Vehicle Theft	2404	Hallucinogen-Possess	3504*
Theft Veh By Bailor	2405	Hallucinogen	3505*
Receive Stolen Veh	2406	Heroin-Sell	3510
Strip Stolen Veh	2407	Heroin-Smuggl	3511
Possess Stolen Vehicle	2408	Heroin-Possess	3512
Interstate Transp Stolen Veh	2409	Heroin	3513
Aircraft Theft	2410	Opium Or Deriv-Sell	3520
Unauth Use Of Veh	2411	Opium Or Deriv-Smuggl	3521
Stolen Vehicle	2499	Opium Or Deriv-Possess	3522
		Opium Or Deriv	3523
		Cocaine-Sell	3530
		Cocaine-Smuggl	3531
		Cocaine-Possess	3532
		Cocaine	3533
		Synth Narcotic-Sell	3540
		Synth Narcotic-Smuggl	3541
		Synth Narcotic-Possess	3542
		Synth Narcotic	3543
		Narcotic Equip-Possess	3550
		Marijuana-Sell	3560
		Marijuana-Smuggl	3561
		Marijuana-Possess	3562
		Marijuana-Producing	3563
		Marijuana	3564
		Amphetamine-Mfr	3570
		Amphetamine-Sell	3571
		Amphetamine-Possess	3572
		Amphetamine	3573
		Barbiturate-Mfr	3580
		Barbiturate-Sell	3581
		Barbiturate-Possess	3582
		Barbiturate	3583
		Dangerous Drugs	3599
<b>FORGERY/COUNTERFEITING</b>		<b>SEX OFFENSES (Not involving sexual assault commercialized sex)</b>	
Forgery Of Checks	2501	Sex Offense-Against Child-Vending	3601
Forgery Of-See MIS (Identify object)	2502	Homosexual Act With Girl	3602
Counterfeiting Of-See MIS (Identify object)	2503	Homosexual Act With Boy	3603
Pass Forged-See MIS (Identify object)	2504	Incest With Minor	3604
Pass Counterfeited-See MIS (Identify object)	2505	Indecent Exposure	3605
Possess Forged-See MIS (Identify object)	2506	Bestiality	3606
Possess Counterfeited-See MIS (Identify object)	2507	Incest With Adult	3607
Possess Tools For	2508	Seduction Of Adult	3608
Forgery/Counterfeiting	2509	Homosexual Act With Woman	3609
Transport Forged-See MIS (Identify object)	2510	Homosexual Act With Man	3610
Transport Counterfeited-See MIS (Identify object)	2511	Peeping Tom	3611
Transport Tools For	2512	Sex Offense	3699
Forgery/Counterfeiting	2599		
Counterfeiting	2599		
<b>FRAUDULENT ACTIVITIES</b>		<b>OBSCENITY</b>	
Fraud-Confidence Game	2601	Obscene Material	3700
Fraud-Scams	2602	Obscene Material-Mfr	3701
Mail Fraud	2603	Obscene Material-Sell	3702
Fraud-Imperion	2604	Obscene Material-Mailing	3703
Fraud-Illeg Use Credit Cards	2605	Obscene Material-Possess	3704
Fraud-Insult Funds Check	2606	Obscene Material-Distrib	3705
Fraud-False Statement	2607	Obscene Material-Transport	3706
Fraud-By Wire	2608		
Fraud	2699		
<b>HOZZELDENT</b>			
Embassie-Business Prop	2701		

\*Not to include marijuana

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## OBSCENITY (continued)

Obscene Communication	3707
Obscenity	3799

## FAMILY OFFENSES

Neglect Family	3801
Cruelty Toward Child	3802
Cruelty Toward Wife	3803
Bigamy	3804
Contrib Delinq Minor	3805
Neglect Child	3806
Renunciation Of Allegiance	3807
Non-support Of Parent	3808
Family Offense	3899

## CASINING

Bookmaking	3901
Card Game-Operating	3902
Card Game	3904
Dice Game-Operating	3905
Dice Game	3907
Gambling Device-Possess	3908
Gambling Device-Transport	3909
Gambling Device-Not Registered	3910
Gambling Device	3911
Gambling Goods-Possess	3912
Gambling Goods-Transport	3913
Gambling Goods	3914
Lottery-Operating	3915
Lottery-Runner	3916
Lottery	3918
Sports Tampering	3920
Transmit Legat Information	3921
Establish Gambling Place	3921
Gambling	3999

## COMMERCIALIZED SIGNAL OFFENSES

Keeping House Ill Fame	4001
Procure For Prostitute	4002
Commercial Sex-Homosexual Prostitution	4003
Prostitution	4004
Frequent House Ill Fame	4005
Transp Female Interstate For Immoral Purp	4006
Commercial Sex	4099

## LIQUOR (Not to include tax and revenue matters or driving under the influence of liquor)

Liquor-Mfr	4101
Liquor-Sell	4102
Liquor-Transport	4103
Liquor-Possess	4104
Liquor	4199

## OBSTRUCTING THE POLICE

Resisting Officer	4801
Obstruct Criminal Invest	4802
Making False Report	4803
Evidence-Destroying	4804
Witness-Discussing	4805
Witness-Deceiving	4806
Refusing To Aid Officer	4807
Compounding Crime	4808
Unauth Communication With Prisoner	4809
Illegal Arrest	4810
Crossing Police Lines	4811
Failure Report Crime	4812
Failure To Move On	4813
Obstruct Police	4899

## FLIGHT-ESCAPE

Escape See MIS (Identify type institution, enter date of escape in Date of Warrant)

FLIGHT-FIELD	4901*
Flight To Avoid See MIS (prosecution, confinement, etc.)	4902**
Aiding Prisoner Escape See MIS (Identify type institution)	4903
Harboring Escape/Fugitive	4904
Flight-Escape	4999

\* When the Offense (OFF) Field code is 4901, 5003, 5011, 5012, or 5013, the original offense committed by the violator must be included in the Miscellaneous (MIS) Field of the record.

\*\* When the Federal charge is unlawful flight (UFAC, UFAP, or UFAT), enter code 4902 in the OFF Field, in the MIS Field enter UFAC, UFAP, or UFAT followed by a description of the local charge, for example,

UFAP-MURDER  
 \*\*\*\*\* When the offense code 5099 is used, free text or easily understood abbreviations explaining or describing the offense must be placed in the MIS Field.

## OBSTRUCTION JUDICIARY, CONGRESS, LEGISLATURE, OR A COMMISSION

Bail-Secured Bond	5001
Bail-Personal Recog	5002
Perjury	5003
Perjury-Subornation Of	5004
Contempt Of Court - See MIS	5003*
Obstructing Justice	5006
Obstructing Court Order	5007
Misconduct-Judic Officer	5008
Contempt Of Congress	5010
Contempt Of Legislature	5010
Parole Violation - See MIS	5011*
Prob Violation - See MIS	5012*
Condit Release Violation	5013
Mandatory Release Violation	5014
Failure To Appear - See MIS	5015*
Obstruct See MIS	5099**

## BRIBERY

Bribe-Giving	5101
Bribe-Offering	5102
Bribe-Receiving	5103
Bribe	5104
Conflict Of Interest	5105
Gratuity-Giving	5106
Gratuity-Offering	5107
Gratuity-Receiving	5108
Gratuity	5109
Kickback-Giving	5110
Kickback-Offering	5111
Kickback-Receiving	5112
Kickback	5113
Bribery	5199

## WEAPON OFFENSES

Altering Identification On Weapon (specify weapon)	5201
Carrying Concealed Weapon (specify weapon)	5202
Carrying Prohibited Weapon (specify weapon)	5203
Explosives-Teaching Use (specify)	5204
Explosives-Transporting (specify)	5205
Explosives-Using (specify)	5206
Incendiary Device-Possess (specify)	5207
Incendiary Device-Using (specify)	5208
Incendiary Device-Teaching Use (specify)	5209
Licensing-Registration Weapon (specify weapon)	5210
Explosives-Possessing (specify)	5211
Possession Of Weapon (specify weapon)	5212
Firing Weapon (specify weapon)	5213
Selling Weapon (specify weapon)	5214
Threat To Bomb (specify)	5215
Threat To Burn (specify)	5216
Weapon Offense	5299

## PUBLIC PEACE

Anarchism	5301
Riot-Instigating	5302
Riot-Engaging In	5303
Riot-Interfere Firmman	5304
Riot-Interfere Officer	5305
Riot	5306
Assembly-Unlawful	5307
Harassing Communication	5309
Desecrating Flag	5310
Disord Conduct (specify conduct)	5311
Public Peace	5399

## TRAFFIC OFFENSE

Mic And Run	5401
Transp Dangerous Material	5402
Driving Under Influence Drugs	5403
Driving Under Influence Liquor	5404
Traffic Offense	5499

## HEALTH-SAFETY

Drugs-Adulterated	5501
Drugs-Misbranded	5502
Drugs-Health or Safety	5503

HEALTH-SAFETY (continued)

Food-Adulterated	3310
Food-Misbranded	3311
Food-Health or Safety	3312
Cosmetics-Adulterated	3320
Cosmetics-Misbranded	3321
Cosmetics-Health or Safety	3322
Health-Safety	3399

CIVIL RIGHTS

Civil Rights	3699
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INVASION OF PRIVACY

Divulge Eavesdrop Info	3701
Divulge Eavesdrop Order	3702
Divulge Message Contents	3703
Eavesdropping	3704
Eavesdrop Equip	3705
Opening Sealed Communication	3706
Trespassing	3707
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SMUGGLING

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Smuggle Contraband Into Prison (specify type)	3802
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Smuggling	3899

ELECTION LAWS

Election Laws	3999
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\*When offense codes 7099, 7199, 7299, and 7399 are used, free text or easily understood abbreviations explaining or describing the offense must be placed in the Miscellaneous (MIS) Field.

ANTITRUST

Antitrust	6099
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TAX REVENUE

Income Tax (further describe)	6101
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CONSERVATION

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Conservation	6299

Crimes Against Person See MIS	7099*
Property Crimes See MIS	7199*
Morals-Decency Crimes See MIS	7299*
Public Order Crimes See MIS	7399*